

315
No. 1149

UNITED STATES CIRCUIT COURT OF APPEALS

FOR THE NINTH CIRCUIT.

APOSTLES
ON APPEAL.

C. SCHWARTING, Master and Claimant
of the German Bark "Robert Rickmers,"
her Tackle, Apparel and Furniture,

Appellant,

vs.

THE STIMSON MILL COMPANY
(A CORPORATION,)

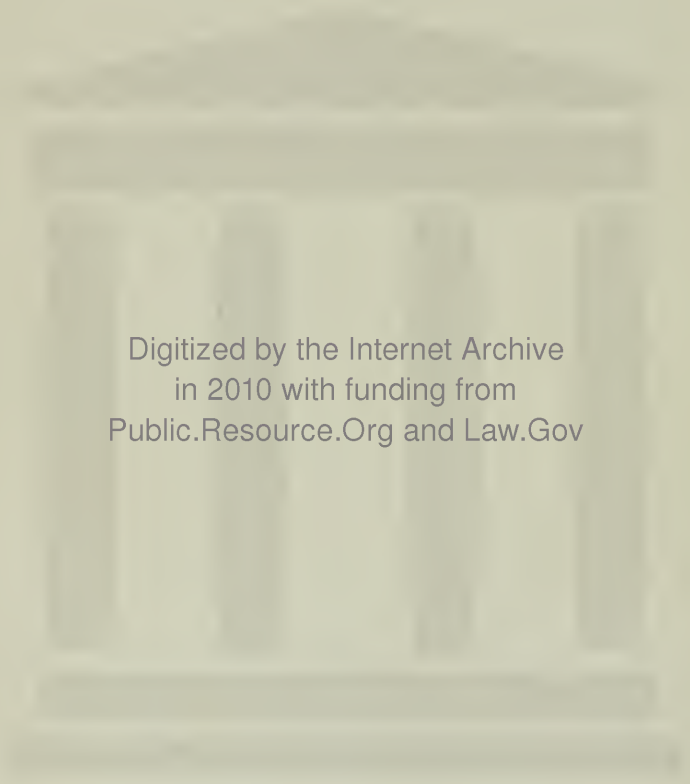
Appellee.

FILED
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VOL. I.

(Pages 1 to 288, Inclusive.)

Upon Appeal from the United States District
Court for the District of Washington,
Western Division.



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*District Court of the United States, District of Wash-
ington, Western Division.*

Parties.

Libelant: The Stimson Mill Company, a corporation, man-
aging owner of the schooner "Stimson," of Seattle,
Washington.

Respondent: The German bark "Robert Rickmers," her
tackle, apparel and furniture.

Claimant: C. Schwarting, as master and agent for Rick-
mers, Reismuchten, Rhederei & Schiffbau, Owners.

Surety: National Surety Company.

Proctors.

Messrs. Hughes, McMicken, Dovell & Ramsey, Bailey
Building, Seattle, Washington, for libelant.

Mr. James M. Ashton, Fidelity Building, Tacoma, Wash-
ington, for respondent and claimant.

Statement.

1902.

Jan. 28. Verified libel filed. Monition for attachment
of respondent issued, which said monition was
afterward, to wit, on January 30th, returned
and filed in court by the United States Mar-
shal with the following return of service there-
on: "In obedience to the within monition, I at-
tached the German bark 'Robert Rickmers,'

therein described, on the 28th day of January 1902, and have given notice to all persons claiming the same that this Court will, on the 12th day of February, 1902, proceed to the trial and condemnation thereof, should no claim be interposed for the same. C. W. Ide, U. S. Marshal, by I. S. Davisson, Deputy Marshal."

Jan. 30. Claim of C. Schwarting as master and agent for Rickmers Reismuchten, Rhederei & Schiffbau, Owners. \$30,000 deposited in court in lieu of bond for release. Marshal directed to deliver custody of respondent to claimant.

Jun. 17. Verified answer filed.

1903.

Mar. 10. Deposit withdrawn by agreement, and bond in the sum of \$25,000 with National Surety Company as surety, substituted.

Dec. 26. Amended answer filed.

1904.

Apr. 1. Report of testimony taken before M. L. Clifford, United States Commissioner, filed.

Apr. 6. Oral argument on merits before the Honorable C. H. Hanford, United States District Judge, at Tacoma.

Jul. 22. Opinion of the Court filed awarding damages to libelant in the sum of \$18,680, with interest and costs.

Aug. 12. Application of Claimant for rehearing filed.

Nov. 2. Rehearing denied.

Nov. 7. Decree in accordance with opinion entered.

- Nov. 12. Assignments of error filed and served. Notice of appeal filed and served. Citation issued and subsequently filed with acceptance of service thereof by proctors for Appellee.
- Nov. 17. Order allowing appeal, and order that stipulation in the sum of \$25,000, now on file, be considered as a supersedeas; that proceedings be stayed until the further order of the Appellate Court in the premises, and that the appellant be relieved from giving further bonds on appeal, except a stipulation for costs in the sum of \$250.
- Nov. 22. Bond for costs in the sum of \$250 filed with the approval of the District Judge, dated Nov. 17, 1904.
- Nov. 23. Notice of filing cost bond on appeal, with acceptance of service thereof, filed.

*In the United States Circuit Court of Appeals for the
Ninth Circuit.*

IN ADMIRALTY.

<p>THE STIMSON MILL COMPANY (a Corporation), Libelant and Respondent, vs. C. SCHWARTING, Master of the Ger- man Bark "ROBERT RICKMERS," Claimant and Appellant.</p>	}	No. —.
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Stipulation as to Contents of Apostles on Appeal.

For the sake of brevity and to avoid unnecessary expense, it is hereby stipulated that the clerk of the Court in making up the apostles herein may omit from all pleadings, orders and proceedings (other than the libel and answer upon which the cause is heard) the title of the court and the number and title of the cause, and the words "In admiralty" where the same appear with such title.

Dated at Tacoma this 12th day of November, 1904.

JAMES M. ASHTON,

Proctor for Claimant and Appellant.

HUGHES, McMICKEN, DOVELL & RAMSEY,

Proctors for Libelant and Respondent on Appeal.

[Endorsed]: Filed in the U. S. District Court. Nov. 22, 1904. R. M. Hopkins, Clerk. Saml. D. Bridges, Deputy.

*In the District Court of the United States, for the District
of Washington, Western Division.*

IN ADMIRALTY.

THE STIMSON MILL COMPANY (a
Corporation), Managing Owner of the
Schooner "STIMSON" of Seattle,
Washington,

Libelant,

vs.

The German Bark "ROBERT RICK-
MERS," Her Tackle, Apparel, and
Furniture,

Respondent.

No. 364.

Libel.

To the Honorable C. H. HANFORD, Judge of the Above-
entitled Court:

The libel of The Stimson Mill Company, a corporation organized and existing under the laws of the State of Washington, and having its principal place of business at Seattle, Washington, managing owner of the four-masted schooner "Stimson" of Seattle, Washington, in its own behalf, and in behalf of the other owners of said schooner against the four-masted German bark "Robert Rickmers" of Bremerhaven, Germany, her tackle, apparel and furniture, and against all persons lawfully intervening for their interest therein in a cause of collision civil and maritime, alleges as follows:

I.

That the said libelant The Stimson Mill Company, a corporation as aforesaid, during all of the times herein mentioned was and now is the managing owner of the four-masted schooner "Stimson" of Seattle, Washington, and of her tackle, apparel and furniture, and which said schooner is of the length of about 185 feet, of the beam of about 40 feet and of the depth of about 14 feet, and of about 701 tons gross tonnage measurement, and of which during all of the times herein mentioned one C. Peterson was master and which said schooner "Stimson" is a new vessel of the value of about \$60,000 and is engaged in the transportation business upon the waters of the Pacific Ocean and at the time herein mentioned was under charter from the Stimson Mill Company to carry a cargo of lumber from the port of Ballard on Puget Sound to Redondo, California, and had aboard at the time of the collision hereinafter mentioned about 650,000 feet of lumber, being about three-quarters of a cargo, and which had been loaded at the port of Ballard in the District aforesaid.

II.

That during all of the times herein mentioned the said "Robert Rickmers" was and is a four-masted iron bark of Bremerhaven, Germany, and as this libelant is informed was and now is owned by Rickmers, Reismuhlen, Rhederei & Schiffbau, and of the length of about 279 feet and of the breadth of about 42 feet and of the depth of about 24 feet, and of 2277 tons gross tonnage measurement, and of the value of about ninety thousand dollars,

and at the time of the collision hereinafter mentioned said "Robert Rickmers" was bound to the port of Tacoma to load with a cargo of wheat.

III.

That at the time of the collision hereinafter mentioned, and about two weeks prior thereto, the said schooner "Stimson" was lying at anchor off the mouth of Shilshole Bay, near the port of Ballard in the district aforesaid, taking on cargo from lighters moored alongside, and that during all of the times herein mentioned said "Stimson" was properly and safely secured and anchored and in her usual place of anchorage, and at all the times herein mentioned was in the command of capable and skillful officers and had a full crew aboard, and carried the proper and regular riding light brightly burning, and at all of the times herein mentioned had a proper lookout.

IV.

That on the afternoon of the 25th day of December, 1901, the said "Robert Rickmers," while proceeding under tow to the port of Tacoma aforesaid, was taken by the tugboat towing the said bark to a point of anchorage under the lee of Magnolia Bluff, a distance of about a quarter of a mile southwesterly from where the said "Stimson" was anchored. That the said "Robert Rickmers" lay at anchorage aforesaid until about eleven o'clock at night, when the said bark, being insufficiently improperly and unskillfully anchored and moored, and with insufficient and defective cables, parted one of her anchor chains and dragged from her anchorage down

toward the fleet of vessels of which the "Stimson" formed one, narrowly missing the schooner "Corona," fouling the schooner "Mildred," and carrying away the bowsprit and headgear of the said schooner, and then striking said schooner "Stimson" with her port side on the bowsprit, carrying away her jib-boom, bowsprit, and all of her headgear and foretopmast, and then ranging alongside with her port side against the starboard side of said "Stimson," during which time said schooner "Stimson" held both vessels for a period of about fifteen minutes, when the combined weight of both vessels upon the anchor of the "Stimson" in the prevailing wind and sea caused the "Stimson's" anchor to drag, and the "Stimson" immediately paid out more chain, but when the weight of both vessels fetched up on the cable it carried away the windlass and said vessel's anchor chain then ran out to its full length and both of said vessels locked together, drifted in a northeasterly direction to a point off Richmond Beach in King County, in the District aforesaid, a distance of eight or nine miles, when the anchor of the "Stimson" brought up holding both vessels, the said bark "Rickmers" ran her anchor out and pulled away from the collision with said schooner.

V.

That during the collision herein described the said "Stimson" was damaged by the said "Rickmers" as follows: The jib boom and outer bobstay turnbuckle and oak martingale were broken and carried away; the foretopmast was carried away and the trestle trees broken,

as well as the cross trees and outrigger. The port fore-topmast backstay and jumperstay were broken, four shrouds starboard main rigging, topmast backstay, main royal stay from pole to foremasthead were carried away, as well as the four shrouds and topmast backstay on the starboard side of the mizzen mast, and the four shrouds and topmast backstay on the starboard side of the jiggermast was carried away, and both mizzen and jigger masts so badly chafed as to require new masts. On the starboard side, the after chain plate at the mainmast, and the 4th chain plate and topmast chain plate were bent and broken, and on the starboard side the forward chain plate and after or 4th chain plate and topmast chain plate were bent and broken on the starboard side of the jiggermast, as well as 14th rigging turnbuckles and 4 backstay turnbuckles; the windlass shaft five inches in diameter was broken, as well as the cogs, compressors and wild-cat, and shaft to messenger wheel was bent. The starboard anchor stock was bent and the forelock broken. The topping lift falls on the fore, main and mizzen masts were carried away, as were also the jib topsail and flying jib halyards and the mizzen and spanker peak halyards and purchase for same. Two gang planks, tackles, and a 36 foot gangway plank were carried away as were the mizzen and jigger starboard deck load pin rails, and a starboard mail rail broken from Scarph abaft rigging, mizzen aft, and the chock on the starboard side of poop and 36 feet of the rail broken and carried away; also two ten-inch dead lights and stanchions on the starboard side of fly rail

on the poop, and the teak after companionway, deck iron for stovepipe were broken and carried away. The planking on the starboard side after the jigger mast was badly chafed and injured, as well as planking on the port side abaft the jigger rigging which was caused by collision with the lighter on the port side and the rider keelson split at the steps of the mizzen mast and jigger mast, and divers other injuries and damages caused to the said schooner, her tackle and apparel.

VI.

That the said collision was not caused by any fault or omission on the part of the officers or crew of the said schooner "Stimson," but was solely caused by the improper and unskillful management and handling of the said bark by those having her in charge, and by her failure to be properly anchored, and by her failure to have sound and safe ground tackle, and also by her failure to avoid a collision with said schooner when she found that she was dragging toward said schooner, and by her failure to clear herself from said schooner immediately after the collision; but, on the contrary, holding on to said schooner during the time aforesaid, amounting to upwards of an hour to save herself from drifting ashore as she would surely have done in the prevailing wind and weather, but for being fouled with the "Stimson," and depending upon the ground tackle of the latter to prevent her drifting on a lee shore.

VII.

That by reason of the collision aforesaid, the said "Stimson" has sustained damages for the necessary repairs, for her loss of time, that has been required and will be required in the unloading and reloading of said cargo, in the making of repairs, for expenses of tow-boats, lighters and the services of the steamer "Rapid Transit" in securing her anchor, for the expenses of her master and crew, and for other expenses and damages incident to said collision in the sum of twenty-two thousand five hundred dollars, all of which said damages were occasioned by the neglect, want of skill and improper conduct of the persons in charge of the said bark "Robert Rickmers," and by the said bark being insufficiently and improperly equipped with anchors and cables, and not by or through any fault or improper conduct of the persons on board the said "Stimson," or her master, officers or crew.

VIII.

That since the said collision, this libelant has applied to the master and representatives of the said "Robert Rickmers" for an adjustment of the said damages, requesting them to settle with this libelant therefor, but they have refused to pay the same, or any part thereof.

IX.

That the said bark "Robert Rickmers" is now lying in the port of Tacoma in the district aforesaid, and within the jurisdiction of this Court.

X.

That all and singular the premises are true and within the admiralty and maritime jurisdiction of the United States and of this Honorable Court.

Wherefore said libelant prays that process in due form of law according to the course of this Honorable Court in cases of admiralty and maritime jurisdiction may issue against said bark "Robert Rickmers," her tackle, apparel and furniture, and that all persons having any interest herein may be cited to appear and answer on oath all and singular the matters aforesaid, and that this Honorable Court will be pleased to decree the payment of the damages as aforesaid, and that the said "Robert Rickmers" may be condemned and sold to pay the same, and that the said libelant may have such other and further relief as in law and justice it may be entitled to receive.

STRUVE, ALLEN, HUGHES & McMICKEN,

Proctors for Libelant.

United States of America,	} ss.
District of Washington,	
County of King.	

F. S. Stimson, being first duly sworn, on oath deposes and says: That he is the secretary of the Stimson Mill Company the libelant named in the foregoing libel; that he has read the foregoing libel, knows the contents thereof, and that the statements therein contained are true.

F. S. STIMSON.

Subscribed and sworn to before me this 27th day of January, 1902.

H. J. RAMSEY,

Notary Public in and for the State of Washington, Residing at Seattle.

[Endorsed]: Filed in the U. S. District Court. Jan. 28, 1902. R. M. Hopkins, Clerk. Saml. D. Bridges, Deputy.

In the United States District Court for the District of Washington, Western Division.

IN ADMIRALTY.

STIMSON MILL COMPANY (a Corporation), Managing Owner of the Schooner "STIMSON,"

Libelant,

vs.

The German Bark "ROBERT RICKMERS," Her Tackle, Apparel and Furniture,

Respondent,

and

C. SCHWARTING, Master,

Claimant.

No. 364.

Amended Answer of Respondent and Claimant.

The amended answer of the respondent and the claimant as the master of the bark and as agent of Rickmers-Reismuehlen-Rherered & Schiffau, A. G., the owners of

the bark, intervening for his interest and the interest of the owners to the libel of the Stimson Mill Company, a corporation, managing owner of the schooner "Stimson" alleges and propounds as follows:

First.—In answer to the first paragraph of the libel, the respondent and the claimant say that they have no sufficient information as to the matters alleged therein and therefore deny the same.

Second.—In answer to the second paragraph of the libel, the respondent and the claimant admit the truth of the allegations therein save and except the allegation that the "Rickmers" is worth the sum of ninety thousand dollars (\$90,000), and as to that they say that the bark is worth not over the sum of seventy-five thousand dollars (\$75,000).

Third.—In answer to the third paragraph of the libel, the respondent and the claimant say that they have no sufficient information as to the matters herein alleged and therefore deny the same save and except the allegation that at all the times therein mentioned, the "Stimson" had a proper lookout, and as to that they say that at the time of the collision alleged in the libel there was not a proper lookout and watch kept on the "Stimson" but that the fact is that the watch and lookout, if any there was, was negligent and careless.

Fourth.—In answer to the fourth paragraph of the libel, the respondent and claimant say that it is true that the "Rickmers," while proceeding up sound to Tacoma, under tow, was taken by the towboat to an anchorage under the lee of Magnolia Bluff, and that she lay in

safety at her anchorage until about eleven o'clock P. M., when she dragged her anchors and fouled the schooner "Mildred," and inflicted the damage alleged, and afterward came into collision with the "Stimson"; that is true that the vessels were in collision for some time, and that for a space of time the vessels hung by the "Stimson's" anchor; that thereafter both vessels dragged to leeward, and that the "Stimson" thereupon payed out more chain until her cable chain had run out its full length, and that the "Stimson's" windlass was carried away; but respondent and claimant deny that the distance from the "Rickmers" to the "Stimson" was about a quarter of a mile, and say that the distance was not less than a half mile, and that the anchorage of the "Rickmers" was nearly due south of the "Stimson" by magnetic compass bearing. Further answering the fourth paragraph of the libel, the claimant and respondent say there were but three vessels other than the "Rickmers" lying at anchor in Shilshoal Bay when the "Rickmers" came to anchor, and deny that she was improperly, insufficiently and unskillfully anchored and moored, and deny that her cables were insufficient and defective, and say that the "Rickmers" was anchored in a skillful and seamanlike manner, and that her anchors, chains, cables, and ground tackle generally, were of good and sufficient quality. Further answering the fourth paragraph of the libel, the respondent and claimant deny that after the collision of the "Rickmers" and the "Stimson," and after the vessels had dragged together for some distance as aforesaid, that both vessels came

up and held on the "Stimson's" ground tackle alone as alleged, and say that the fact is that the vessels broke apart while still drifting, and that the "Stimson" brought up on her own anchor, and that the "Rickmers" drifted by her, and afterward brought up on her ground tackle. Further answering the fourth paragraph of the libel, the respondent and claimant admit that the "Stimson" received injuries because of the collision, but further say that they have no sufficient information as to the extent of the injuries so received, and therefore deny the allegations of the libel as to the extent thereof.

Fifth.—In answer to the fifth paragraph of the libel, the respondent and claimant say that they have no sufficient information as to the extent of the injuries alleged therein to have been received in the collision, and therefore deny the same.

Sixth.—In answer to the sixth paragraph of the libel, the respondent and the claimant deny that the collision was not caused by any fault or omission on the part of the officers or crew of the "Stimson," and assert the fact to be that the cause of the collision in whole or in part was the neglect of the "Stimson" to have and to keep a proper lookout and watch, and that if a proper lookout and watch had been kept by her, the members of her crew and her officers would have had warning and ample time to have avoided the collision by taking proper and seamanlike steps to avoid the same. Further answering the sixth paragraph of the libel, the respondent and claimant deny that the collision was caused in whole or in part by the improper and unskillful hand-

ling of the "Rickmers," or by her failure to have sound and sufficient ground tackle, or by her failure to avoid a collision when she found that she was dragging toward the "Stimson," or by her failure to clear herself from the "Stimson" immediately after the collision, but on the contrary assert the fact to be that the "Rickmers" was fully and completely equipped with safe and sufficient ground tackle, and that the cause of her dragging her anchors was the force and fury of the elements; that both before and after she dragged she was handled in a skillful and seamanlike manner, and that she did all in her power to avoid the collision, and that after coming into collision, she took every precaution within her power to avoid and minimize the injury to the "Stimson" as well as to herself.

Seventh.—In answer to the seventh paragraph of the libel, respondent and claimant say that they have no sufficient information as to the facts alleged therein, and therefore deny the same, save and except the allegations that the damage incurred by the "Stimson" were occasioned by the neglect, want of skill and improper conduct of the persons in charge of the "Rickmers," and by the barks being insufficiently and improperly equipped with anchors and cables, and as to these allegations the respondent and claimant say that the same are not true, but that the fact is as herebefore alleged that the "Rickmers" was fully and properly equipped with adequate and sufficient anchors, chains, cable and ground tackle of every description, and that her officers and crew were not guilty of any negligent or unseaman-

like conduct in the management of the bark. Further answering the seventh paragraph of the libel, the respondent and the claimant say that it is not true that the "Stimson" was not at fault in the matters which caused the collision, and further say that the "Stimson" was in fault as hereinbefore in this answer alleged.

Eighth.—In answer to the eighth paragraph of the libel, the respondent and the claimant say that the matters therein alleged are true.

Ninth.—In answer to the ninth paragraph of the libel, the respondent and the claimant say that the matters therein alleged are true.

Tenth.—In answer to the *ninth* paragraph of the libel, the respondent and the claimant say that the matters therein alleged are not true, save and except the allegation that the matter is within the admiralty and maritime jurisdiction of the United States, and of this Honorable Court, and as to these allegations the respondent and the claimant admit that they are true.

Further answering the libel herein the respondent and the claimant aver as follows:

First.—That the bark "Robert Rickmers" inward bound arrived at Port Dungeness on December 24th, 1901, and came to anchor at a point between Port Dungeness and Port Angeles until 11:30 P. M. of that day, when she weighed her anchor and started up sound for Tacoma under tow of the tugboat "Tacoma," and made Port Townsend at 3:30 A. M. of December 25th; that she left Port Townsend at 9:00 A. M. of the 25th and proceeded up sound under tow of the "Tacoma";

that she was in ballast, and as the breeze freshened she was taken at about 4 P. M. to a temporary anchorage in Shilshoal Bay at a point about three-quarters of a mile (nautical) distant from and bearing N. 33 E. (true) from Westpoint light; that the wind at this time was from the westerly quarter and was no more than a fresh breeze; that there was lying at anchor in Shilshoal Bay at this time three schooners, and that the "Richmers" came to anchor at a point about due south (magnetic) and distant not less than a half mile from the "Stimson"; that in coming to anchor the port anchor was dropped, and in so doing, the block of the port compressor was carried away, and the bark sagged off to leeward and narrowly escaped a collision with the schooner "Corona"; that the bark was hauled back to her anchorage by the tug and that both her anchors were dropped, and that thereafter she lay safely at her anchorage until after 10:00 P. M., having 40 fathoms of chain on her port anchor, the chain of which was stoppered to the foremast by a relieving tackle, and 30 fathoms of chain on her starboard anchor, which was all she could safely allow without fouling either the "Mildred" or the "Corona"; that about 10 P. M. the relieving tackle on the port chain carried away, and the wind having veered to the southward and increased to the force of a hurricane, the ship dragged her anchors and came into collision with the schooner "Mildred," carrying away the "Mildred's" jib-boom, and inflicting other injuries to her; that she swung clear after a while from the "Mildred," and after not less than a half hour

elapsed, came into collision with the "Stimson," inflicting severe injuries upon her and receiving severe injuries herself; that she remained for some time in collision with the "Stimson" during which time the "Stimson's" anchor dragged, and both vessels locked together went to leeward; that after dragging for some distance the vessels broke apart and each brought up on its own ground tackle.

Second.—The respondent and claimant further allege that the master of the "Rickmers," the claimant herein, was on his first voyage to Puget Sound, and was a stranger in its ports and waters; that it is the custom of Puget Sound ports that tugboats in making contracts of towage inward and outward assume also the duties of pilotage, and that the rate of compensation paid to them is on this basis; that the master of the tugboat "Tacoma" was, at the time in question, a duly licensed pilot for the waters of Puget Sound; that as such pilot and master he chose the anchorage for the "Rickmers" and designated the spot in which she should lie; that there was nothing in the surroundings of the anchorage to indicate to the master of the "Rickmers" that the place so chosen was not a proper anchorage, and her master being a stranger, as aforesaid, relied upon the master and pilot of the tug in choosing the anchorage; that the "Rickmers" was fully found and seaworthy in every respect, and that her anchors, chains, cables and ground tackle were adequate, staunch, and sound in every particular, so far as her officers and crew could know; that the cause of the carrying away of her port

compressor block was and is now unknown to the respondents, but they verily believe the same to have been caused by some hidden and latent defect, if defect there was, but they say that not now or at any time was any defect known to them, although the compressor and the ground tackle generally had been fully and carefully inspected shortly before the accident aforesaid.

Third.—That the respondent and the claimant further allege that after the port compressor block carried away as aforesaid that the bark and her officers and crew took all and every proper and seamanlike steps to secure the same and to make the anchorage of the bark safe and secure as far as in their power lay; that the wind having veered to the southward and having increased to hurricane force, the relieving tackle on the port chain having carried away, the ship began to drag, and that thereupon the bark and her officers and crew took every and all proper and seamanlike precautions to protect the ship from injury to herself, and to other shipping, and that among other steps taken the starboard chain was payed out as rapidly as possible until over ninety fathoms had been allowed to go outboard, and the proponents further allege that the reason why the bark dragged her anchors was the fury and force of the elements, and was not due to any negligence or want of nautical skill on the part of the bark or her officers and crew.

Fourth.—The respondent and claimant further allege that from the time the bark began to drag her anchors, as aforesaid, and particularly from the time she was

in collision with the schooner "Mildred" as aforesaid, not less than a full half hour elapsed; that the night was free from fog, and although the weather was tempestuous, surrounding objects, and particularly the lights of vessels could be seen clearly; that if a proper lookout and watch had been kept on the "Stimson," the fact that the "Rickmers" was dragging down on her would have been seen easily, and that if it were so seen it was within the power of the "Stimson," by paying out more chain so as to have the longest possible scope to have avoided the collision, and that, if the paying out of the chain would not have accomplished this result that it would have been accomplished by properly maneuvering the helm of the "Stimson" so as to sheer her from one side or another, and that the circumstances were such that the "Stimson" might well have set a close-reefed forestaysail to have assisted in the maneuver; but proponents assert the fact to be that no proper watch and lookout was kept by the "Stimson," and that no warning of the impending collision was given to her officers until very shortly before it occurred, so that the officers had no time to direct that the proper and seamanlike steps be taken to avoid the collision.

Fifth.—The respondent and claimant further allege that because of the fault of the "Stimson," her officers and crew, the "Rickmers" suffered severe damage to her hull and rigging, her tackle, apparel and furniture, and that the damages so received amount to not less than the sum of seven thousand five hundred dollars (\$7,500).

Sixth.—That all and singular the premises are true within the admiralty and maritime jurisdiction of the United States and of this Honorable Court.

Wherefore, the respondent and claimant pray that this Honorable Court will be pleased to pronounce against the libel aforesaid, and will condemn the libellant and the “Stimson” in damages in the sum of seven thousand five hundred dollars (\$7,500), together with the costs of this cause, and will give to the proponents such other and further relief as law and justice may administer in the premises.

JAMES M. ASHTON,
Proctor for Respondent and Claimant.

United States of America, }
State of Washington, }
County of Pierce. }

James M. Ashton, being duly sworn, on his oath says that he is the proctor for respondent and claimant in the foregoing cause; that he has read the foregoing answer, and knows the contents thereof; and that he believes the same to be true; that he makes this verification for and on behalf of the respondent and claimant, because neither of them are at this time within this district.

JAMES M. ASHTON.

Subscribed and sworn to before me this 15th day of December, A. D. 1903.

[Seal] W. H. HAYDEN,
Notary Public in and for the State of Washington, Residing at Tacoma, Pierce County, within said State.

[Endorsed]: Filed in the U. S. District Court. Dec. 26, 1903. R. M. Hopkins, Clerk. Saml. D. Bridges, Deputy.

[Title of Court and Cause.]

Transcript of Testimony.

Struve, Allen, Hubhes & McMicken, appearing as proctors on behalf of the libelant, and J. M. Ashton, Esq., and W. L. Sachse, Esq., appearing as proctors on behalf of the claimants and owners of the ship "Robert Rickmers" intending hereafter to make claim and answer herein, it is hereby stipulated and agreed that the testimony of the master and crew of the "Robert Rickmers" may be taken at this time before the Hon. M. L. Clifford, Commissioner, to be read in evidence on behalf of the claimant and respondent; the usual and ordinary notice of the time of taking said testimony being hereby waived, and the signatures of the witnesses being also waived.

Before taking the testimony, it is also understood between the parties hereto that the libelant intends to amend its libel herein so as to claim in addition to the amounts already set out in the libel, a further sum as salvage against the bark "Robert Rickmers," her tackle and apparel.

It is further agreed that for the purpose of facilitating the bark in her departure, she being now ready for sea, that libelant consents that either a bond of a surety company, or an approved certified check, for the sum of

(Testimony of C. Schwarting.)

\$30,000, may be given by the claimant of the "Robert Rickmers," such bond or certified check to stand in lieu of the ship, and be subject to and conditioned for the payment of any judgment rendered herein.

C. SCHWARTING, being called as a witness, being first duly sworn, testified as follows:

(Examination in Chief by Mr. SACHSE.)

Q. What is your name?

A. C. Schwarting.

Q. Were you the master of the "Robert Rickmers" on the 24th and 25th of December last?

A. Yes, sir.

Q. And have you been master of that ship since that time?

A. Yes, sir.

Q. How long have you been a captain?

A. I have been two years on the "Rickmers."

Q. How long have you been a captain?

A. I have been a captain for thirty years.

Q. How old are you now?

A. Sixty-six, nearly.

Q. How long have you followed the sea?

A. I was to sea nearly forty-six years.

Q. How large a ship is the "Rickmers"?

A. Two thousand one hundred and seventy-four net tons.

Q. How old a ship is it?

A. Twelve years.

(Testimony of C. Schwarting.)

Q. When did you come to the Sound in this ship?

A. I came in the 24th.

Q. Where were you on the 24th of December?

A. Well, I anchored outside here, between Angelus and Dungeness.

Q. What happened then, when you were at anchor there, anything? A. No, sir.

Q. When did the tug pick you up?

A. The "Tacoma" picked me up about 11 o'clock.

Q. In the night or morning?

A. The night.

Q. Of December 24th? A. Yes, sir.

Q. Where did he take you to?

A. To Port Townsend.

Q. How was the weather then, Captain?

A. The weather was good.

Q. What arrangement did you have with the tug company about towing you?

A. Out and in to sea, twenty miles, off Flattery, \$700 and inside \$400.

Q. Did the tug have any trouble handling you or bringing you down? A. No, sir.

Q. Where did the tug take you from Port Townsend?

A. He had to take us to Tacoma.

Q. Where did he take you?

A. He anchored us there.

Q. Where did the tug take you to—Salmon Bay?

A. Yes; that time we were at anchor we were in Salmon Bay.

(Testimony of C. Schwarting.)

Q. What time did you leave?

A. A little after four, or four o'clock.

Q. On what day? A. The 25th.

Q. In the afternoon or morning?

A. Afternoon.

Q. What did you do after you arrived there?

A. We anchored.

Q. How many anchors? A. First one.

Q. Which anchor? A. The port anchor.

Q. Did anything happen to you then?

A. We were drifting with one anchor, and we had to let go the second anchor.

Q. Did the tugboat take hold of you again and put you back? A. Yes.

Q. That was the tug "Tacoma"?

A. Yes, sir.

Q. Owned by what company?

A. The Puget Sound Tugboat Company, I think.

Q. In how many fathoms of water did he anchor you first?

A. Midships, fourteen fathoms, maybe a little less forward.

Q. After you anchored the second time, how many anchors did you have out? A. Two.

Q. At what time was it you anchored the second time? A. Well, about half an hour later.

Q. That would be at what time, about?

A. It must be nearly a quarter to five or half-past four, I don't know exactly. I didn't look at the watch.

(Testimony of C. Schwarting.)

Q. Did the tug stay there?

A. No, the tug left us. He went to telephone for another one.

Q. Did the other tug come?

A. No, not in the night.

Q. When did you next see the tug?

A. I saw it the next morning. It came alongside about nine o'clock:

Q. Did the captain of the tug say anything to you then?

A. No, not much, only he wanted to haul the vessel by the tug "Tyee."

Q. You have looked at chart of Seattle Harbor No. 6445?

A. Yes, sir.

Q. Have you located the position of your ship marked with a cross, opposite which is the letter "R" on this chart?

A. Yes, sir.

Q. And also you have located the position of the schooner "Mildred," in the same way with the letter "N"?

A. Yes, sir.

Q. And also the position of the schooner "Corona," with the letter "C"?

A. Yes, sir.

Q. And the position of the schooner "Stimson" in the same way with the letter "S"?

A. Yes, sir.

Q. All with red pencil?

A. Yes, sir.

Mr. SACHSE.—We offer that chart in evidence.

(Testimony of C. Schwarting.)

Mr. HUGHES.—It is understood that this chart may go in evidence and be used by the witnesses on both sides, it being Libelant's Exhibit No. 1 and used by agreement by the plaintiffs.

Q. You have looked at Chart No. 6450 showing Puget Sound from Admiralty Inlet to Seattle?

A. Yes, sir.

Q. You have indicated on that chart by a cross under the letter "R" the place to which the ship "Rickmers" drifted on the night of December 25th?

A. Yes, sir.

Mr. HUGHES.—It is admitted between counsel that the location of the schooner "Stimson," after she brought to upon her anchors, is noted upon this chart by the letter "S" in red pencil and that the position of the bark "Robert Rickmers" is located on this chart by the letter "R." The curved line upon the shore represents Richmond Beach. This points the officers of both vessels agree are, approximately the correct locations at which the two ships brought up at anchor after drifting from their original positions in Shilshoal Bay.

Mr. SACHSE.—We offer this chart in evidence as an exhibit.

(Chart received in evidence and marked as Respondent's Exhibit No. 1.)

Q. What, if anything, happened to your ship after you anchored the second time?

A. She lay steady the first time.

(Testimony of C. Schwarting.)

Q. How long did she lie at anchor?

A. It was about half-past four or a quarter to five when she let go of her second anchor.

Q. And then what?

A. Then she lay steady and then her compressor was broken on the port side, and we put a big tackle on the chain.

Q. What, if anything happened to the ship after that?

A. You see that the tackle hook broke; a hook like this, and then some chain slipped out about five or six fathoms.

Q. How big was that hook on the tackle?

A. About like this; we have got the hook.

Q. In inches, I mean?

A. A little more than two inches, or two inches.

Q. What do you mean by the compressor breaking; can you explain that a little more fully? Explain first, what is a compressor?

A. The compressor is what we got on the chain to secure that together, and keep the chains steady so they can't slip.

Q. What chains do you have reference to?

A. The anchor chain.

Q. What is the size of that chain, do you know?

A. We took the measure—about $2\frac{1}{4}$.

Q. In circumference?

A. Yes, $2\frac{1}{8}$ or $2\frac{1}{4}$ —thickness.

Q. What is the length of these links?

(Testimony of C. Schwarting.)

A. Twelve and one-half inches.

Q. Was it what is called a studded chain?

A. Yes, sir.

Q. What is the size of these studs?

A. About two inches; about 2 or 2 $\frac{1}{4}$, I don't know. I forget that.

Q. What was the size or weight of your anchors?

A. This anchor that we lost was 3600 without the stock, thirty-six hundred-weight.

Q. One hundred and twelve pounds to the hundred weight? A. Yes, sir.

Q. Did you see any ships located near you there when you were at anchor?

A. Yes, I saw those schooners.

Q. That you have identified on this plat?

A. Yes, sir.

Q. How was the weather at the time you began drifting?

A. There was a little more breeze than the time we let go of the anchor, but not the first time; not when we were laying with one anchor.

Q. You didn't have as much breeze?

A. No, there was not so much breeze that time when we anchored with one anchor.

Q. How was it when you anchored with two anchors?

A. We anchored with two anchors, for one wouldn't hold us. The wind went right around the bluff.

(Testimony of C. Schwarting.)

Q. How was the weather? Was it good weather, or strong wind, or how?

A. The wind wasn't very strong, but we call it a fresh.

Q. What time was that?

A. The same time we were anchored.

Q. How was it after that?

A. It commenced a little more to blowing.

Q. Then what happened?

A. About half an hour after that we let go the second anchor. We pulled him up first to the same place and heaved the slack of chain in. We pulled in the same position and the same place, and we lay over that side and one anchor was here and one there.

Q. How much chain did you have out the first time?

A. Forty fathoms on the port.

Q. And how many fathoms on the starboard?

A. There was thirty.

Q. What happened to your ship after that, when you had both anchors out?

A. It lay steady that time, up to the time that it drifted.

Q. What time did you begin drifting?

A. It must have been about ten o'clock.

Q. About ten o'clock at night?

A. Yes, sir.

Q. You lay steady until ten o'clock?

A. Yes; only as I told you before the compressor was split up and we put some tackle on the port side.

(Testimony of C. Schwarting.)

Q. Was the compressor split up before ten o'clock?

A. Yes, before ten o'clock. Both anchors were down.

Q. Then what happened to you after that, when you began drifting; do you understand?

A. No, after 10 o'clock, we drift.

Q. What caused you to drift? How did it come that you began drifting?

A. You see the anchors didn't catch good, I think.

Q. The anchors didn't catch good?

A. No, or there wasn't holding ground, I think, and the ground goes this way and it slips right down.

Q. It slips away from shore? A. Yes, sir.

Q. Had you ever been anchored there before in that bay?

A. Never was here. I didn't want to anchor there.

Q. Well, what happened to your ship then after you began drifting?

A. Why, we came in collision with one schooner. Took the jib-boom away.

Q. Was that the "Mildred"?

A. I don't know the name, it was night. I didn't see the name.

Q. Was it the one you marked with the letter "M" there? A. Yes, sir.

Q. How far was she from you when you began drifting? A. Not so very far.

Q. Well, in ship's lengths?

A. Yes, about that.

(Testimony of C. Schwarting.)

Q. One ship's length?

A. Yes, we couldn't slack more chain.

Q. Why couldn't you slack more chain?

A. We had no room.

Q. Were you too near to the other ship?

A. Yes, and we had no room. We were too near the other ships.

Q. Well, now, how was the wind and weather at that time when you began drifting; the second time?

A. It blew out again.

Q. And what was the result of that with your ship? What else happened to your ship?

A. We cleared the first schooner and drifted away further.

Q. And then what happened?

A. Then we ran against the "Stimson," and slacked some chain first, and cleared the first schooner.

Q. Did it do any damage to you?

A. Yes, it chafed off the sails on the jib-boom and the lower topsail flew away afterwards.

Q. What other damage, if any?

A. On the bulwarks, and it chafed the foresail and the upper topsail.

Q. How much do you estimate the damage to the "Rickmers" in money?

Mr. HUGHES.—Objected to as incompetent, for the reason the witness has not shown his ability to estimate nor sufficiently described the damages to constitute a

(Testimony of C. Schwarting.)

proper basis of measure, and we object to it as immaterial.

Q. What is your estimate as to the damages?

A. The only damage, so far, is about \$5,000.

Q. Do you know what it would cost to make repairs to the "Rickmers"?

Mr. HUGHES.—We make the same objection to this question as the one last interposed, and also object on the ground that the witness has not shown himself competent to give and estimate.

Q. Do you know how much it would cost to make repairs?

Same objection.

Q. Have you knowledge of your own sufficient upon which to make an estimate? A. Yes, sir.

Q. What would you say the damage to the "Rickmers" was?

Same objection.

A. I would say about \$5,000 and then there are some odd things to go on it. It kept me a long time here.

Q. I will ask you, Captain, if you know whether or not the ship "Rickmers" was recently overhauled, and if so, when?

Same objection.

A. She was overhauled in hull last February, 1901.

Q. She was overhauled in hull in February, 1901?

A. Yes, the 12th of February she was in drydock.

Q. Captain, I hand you a paper, and ask you to state

(Testimony of C. Schwarting.)

whether that is a certificate of classification of the "Robert Rickmers," of the port of Veritas?

A. Yes, sir.

Q. And which is in your possession as master at the present time? A. Yes, sir.

Mr. SACHSE.—We offer a copy of this certificate in evidence and ask that the reporter make a copy of it and return the original to the captain.

Mr. HUGHES.—We object to the document itself as incompetent and immaterial. We have no objection to the use of a copy which would not be urged against the original.

(Certificate marked as Claimant's Exhibit No. 2.)

Q. I show you another paper now, Captain, with a pencil drawing on it, and ask you to state, if you know, what it is? A. Yes, I know what it is.

Q. What is this drawing?

A. That is the compress of the anchor chain.

Q. Captain, this first figure, which I will mark No. 1 is an illustration of the compressor, and a section of the anchor chain showing method of operation, is it, do you understand?

A. No, I don't know what operation is.

Q. Explain what this is?

A. You have got to let go of the anchor and the chain is laying this way. We have to secure this up, and this goes right on this length; secure it tight up so

(Testimony of C. Schwarting.)

it can't move. (Here the witness points to the semi-circular figure representing the iron jaw of the compressor, securing it up against the link shown in the diagram—the flat links.)

Q. I will mark on this drawing with the letter "A" and ask you to state whether these things which I have marked with "A" are the iron jaws which hold the chain.

A. Yes, that's right.

Q. The other dark showing on this plat is of what, wood or iron? That I have marked with the letter "B."

A. The dark is iron and the light is wood. Green, hard wood.

Q. When you arrived near the "Stimson," were you on the deck of the "Robert Rickmers"?

A. Yes, sir.

Q. Was anything said to the people?

A. We sung out to the "Stimson" to slack chain.

Q. What did they say, if anything?

A. "Can't slack no more." I didn't sing out to the "Stimson," the mate sang out to them.

Q. Captain, what in your opinion could the "Stimson" have done, if anything, to avoid your running into her at that time?

A. They had to slack chain, or put the helm to starboard; that's what he could do.

Q. If he had put the helm to starboard, do you think the collision would have occurred?

A. I don't think so.

(Testimony of C. Schwarting.)

Q. Did anyone put the helm on the "Stimson"?

A. I don't know. I didn't hear that, but she must know that herself.

Q. Where did you strike the "Stimson"; come in collision with her?

A. On the jib boom. And on the starboard side of the bow.

Q. Captain, that compressor on your ship, how does that compare with the compressors on other ships of similar size and capacity, as to strength and durability?

A. I don't understand.

Q. What I am getting at is this: The compressor on your ship was of the kind that is usually used on ships of that size? A. Yes, sir.

Q. Was it in good order?

A. This was in good order, yes. We are laying with the same anchor chain at Dungeness; with the same anchor.

Q. Was the machinery connected with the running out of the anchor chains in good order, if you know?

A. Yes, sir.

Q. How do you know?

A. We take it off every voyage and about three or four days before coming into port, we put it on again.

Q. When was the last examination made of this compressor, and the anchor chains, before this accident. When was it examined last; looked over?

A. I don't know. It is in the book in the vessel.

(Testimony of C. Schwarting.)

They are examined. The last examination on the last voyage from Nagasaki to here. We cleaned it all and put it on three or four days before we got to port.

Q. I don't mean examinations that you have in your book or anything like that, but what examinations were made on the ship?

A. Three or four days before coming to port we took it off and cleaned it up.

Q. When it was taken off was it in good order?

A. Yes, when we cleaned it and when we put it on it was in good order.

Q. You mean by that the anchor chain, the windlass and the compressor. Everything was examined, was it?

A. Yes, sir.

Q. And that was three or four days before you arrived at Salmon Bay?

A. No, before we got into Flattery.

Q. When you began drifting the first time, Captain, do you know of any other schooner being there which got out of the way when you began drifting the first time?

A. The first time, with one anchor, you mean?

Q. Yes, was there any other schooner there at that time that you came near going into?

A. Yes, sir.

Q. Did you get out of the way? A. Yes, sir.

Q. What schooner was that, the "Corona"?

A. No, it was the other one, laying on the port side of us, the "Mildred."

(Testimony of C. Schwarting.)

Q. It was the "Corona," wasn't it, that you have reference to?

A. That vessel that was lying on the port side.

Cross-examination.

(By Mr. HUGHES.)

Q. Captain, you were bound to Puget Sound from that port? A. Nagasaki.

Q. Were you laden or in ballast?

A. Ballast.

Q. Where did you get your tug?

A. Got it there where we were anchored.

Q. At Dungeness?

A. Between Dungeness and Angelus.

Q. How far were you beyond the Dungeness Spit; how far west were you anchored?

A. I can't say that.

Q. How much water did you have?

A. Between 18 and 20 fathoms; or 15 to 20.

Q. About how near do you think you were to the Spit?

A. What do you call the Spit?

Q. The Spit is the sand point that stands out.

A. Point I understand better than Spit.

Q. The Spit is the sand point that extends out.

A. That is the beach, we call it.

Q. How near were you to the beach?

A. I can't say.

Q. About?

(Testimony of C. Schwarting.)

A. I wasn't so close on as the time the anchor caught the ground here at Shilshoal Bay.

Q. About how near were you?

A. About half a mile.

Q. About half a mile from the beach at Dungeness Spit?

A. No, Dungeness Spit is this way and the coast is here. We were over from Dungeness. We were nearly in the middle.

Q. From Angelus to Dungeness?

A. Yes, sir.

Q. And about half a mile off shore?

A. Yes, sir.

Q. What anchors did you put out there?

A. The port.

Q. Just one anchor, the port anchor?

A. Yes, sir.

Q. Were you on deck the time you came to anchor there? A. Yes, sir.

Q. You gave the orders to come to anchor there?

A. I did.

Q. Who put out the anchor. Who had charge of the letting go of the anchor? A. The mate.

Q. How much chain did you put out there?

A. Sixty fathoms in all.

Q. You were sailing in up to that point with your own sails, were you? A. Yes, sir.

Q. How much of your sails had you taken in when you let go of the anchor?

(Testimony of C. Schwarting.)

A. I don't know how much. We drew up the lower sails and then we heaved to. We sailed with the top sails on and the jibs on.

Q. About how much of a breeze was blowing at that time?

A. There wasn't so very much of a breeze. A fresh breeze, we call it.

Q. About how many knots an hour would you call it?

A. If you sail in small water here it is more knots, and if you sail on the sea, against the sea you don't run so much.

Q. What I want to get at is how many knots an hour do you think the wind was blowing; seven or eight or ten knots? A. No, not that much.

Q. How much? A. Six to seven.

Q. Which way was the wind from?

A. The wind was from the west.

Q. Blowing the way you were going, up the Strait?

A. Yes, sir.

Q. You had a fair wind coming up?

A. Yes, sir.

Q. Did the ship haul up hard on the anchor when the anchor caught?

A. No, not so very hard.

Q. Did it have any trouble in holding—did it drag any? A. No.

Q. Do you know what kind of anchor ground you had there? A. No.

(Testimony of C. Schwarting.)

Q. Do you know whether it was rocky bottom?

A. No, I don't know, it is not on the map.

Q. How did you come to anchor at that place?

A. Well, you see sometimes we get a little wind from shore, and sometimes we have to beat it up, and sometimes there is a dead calm.

Q. How did you come to drop your anchor where you did?

A. I didn't want to go any further.

Q. Were you afraid you might go ashore?

A. You see I was coming in here the first time.

Q. I say you were afraid you might go ashore and that is the reason you anchored there?

A. I was waiting for the steamboat there.

Q. How long did you lie there before the tugboat came? A. I didn't lay there long.

Q. About how many hours?

A. There was a tugboat before; a small one.

Q. And you wouldn't take that one?

A. I made a contract with him and it run away afterwards.

Q. Do you know who that was?

A. Yes, it was the "Rabona."

Q. Then the tugboat "Tacoma" came up and you made a contract with him to tow you in and out for \$700.00? A. Yes, sir.

Q. You were lying there from the morning of the

(Testimony of C. Schwarting.)

24th until ten or 11 o'clock that night when the tug-boat came along and took hold of you?

A. Yes, sir.

Q. You came to anchor over here in Shilshoal Bay or near there about half-past four or five o'clock on the afternoon of December 25th? A. Yes, sir.

Q. You first put out which anchor?

A. The port.

Q. You first put out your port anchor?

A. Yes, sir.

Q. How long is your port anchor chain?

A. One hundred and thirty-five.

Q. Fathoms? A. Yes, sir.

Q. How many fathoms did you put out when you first put out the port anchor?

A. I don't know.

Q. About? A. About 45 fathoms.

Q. Then that was before the tug left you there?

A. Yes, sir.

Q. And you found that she dragged a little?

A. Yes, sir.

Q. The bottom or anchor ground sloped off from the shore? A. Yes, sir.

Q. And then the tug hauled you up and took in some of that chain? A. Yes, sir.

Q. And then put out your starboard anchor and your port anchor both? That is, you put out your starboard anchor then?

(Testimony of C. Schwarting.)

A. Yes. He towed us to same place and we let go of the starboard anchor.

Q. You put out the starboard anchor on your starboard bow and your port anchor was out over your port bow?

A. Yes, sir.

Q. You had your port anchor out with about forty fathoms of chain? A. Yes, sir.

Q. Both anchors took hold of the bottom?

A. Yes, sir.

Q. And the tugboat stayed around there until it was found that you had hold, and the ship was lying securely.

A. Yes, sir.

Q. And then the tugboat went to Seattle?

A. No.

Q. It went away?

A. It went to Ballard to telephone for another tug.

Q. It went to Ballard to telephone for another tug?

A. Yes, sir.

Q. And you were intending to stay there all night and go on to Tacoma the next day?

A. On the anchor place you mean?

Q. Yes. A. No, we drifted away at ten o'clock.

Q. But when you went to anchor there you expected to stay there all night?

A. Yes, that is what we expected.

Q. And the tugboat "Tacoma" went in and was going to telephone to have another tug come out and get you the next morning?— A. We wanted assistance.

(Testimony of C. Schwarting.)

Q. When you came up the Sound, before you anchored there at all, what kind of a wind did you have?

A. On this place where we came on last?

Q. No, when you were coming up Sound all afternoon.

A. We got different winds; westerly winds.

Q. Southerly, mostly, weren't they?

A. We got westerly winds and southerly winds, and got calms and got head winds.

Q. In the afternoon before you came to anchor it was blowing considerable, wasn't it?

A. At that time there was a little breeze, and before we got a head breeze and a calm, and this wind came up.

Q. When you went in there to anchor, what kind of a wind did you have, when you first went there, Captain?

A. We had a westerly wind that time.

Q. About how high a wind was it when you first went there to anchor?

A. I think I told that once.

Q. Tell me again, will you, about how much wind?

A. About six to seven knots.

Q. When you told me six to seven knots I was asking you about the wind you had over at Dungeness, and now I am asking you what wind did you have when you first went to anchor down at Salmon Bay?

A. Nearly the same.

Q. The same that you had when you first went to anchor over at Dungeness?

A. Yes, sir.

Q. You say that the wind came up and blew very hard when you commenced to drift?

A. Where?

(Testimony of C. Schwarting.)

Q. At Salmon Bay? A. Yes, sir.

Q. How long had it been blowing so before you commenced to drift the last time, about ten or eleven o'clock, you said it was.

A. You see, all the time the wind came up more and more.

Q. Kept blowing harder and harder all the time?

A. Yes, sir.

Q. Did your port anchor chain break?

A. Yes, it broke, but we didn't know it that time. That was, that the compressor was split up and we put a tackle on the chain.

Q. But, as a matter of fact, had the chain broken before you put the tackle on it?

A. No, I think not.

Q. Then, first your compressor broke, and you put a tackle on the chain to hold it. A. Yes, sir.

Q. And then after that the chain itself broke?

A. Not at that time, I don't think. We don't, can't tell. We put a tackle on and the hook broke from the tackle.

Q. And you let go some more chains?

A. No, it slipped out, and we got on another compressor around the windlass.

Q. Now, do you know when the chain itself broke?

A. I think it broke the moment the hook broke.

Q. You think it broke the moment the hook broke?

A. Yes, sir.

(Testimony of C. Schwarting.)

Q. How much of your chain was lost?

A. Ten fathoms.

Q. You lost ten fathoms of your chain?

A. Yes, we saw that when we brought the anchor up.

Q. When you attempted to heave the anchor up, you found that the anchor was gone? A. Yes, sir.

Q. And you took in your chain that was left, and found that ten fathoms of chain was missing?

A. Yes, sir.

Q. Now, have you got the end of it that was broken off, have you got that on the ship?

A. Yes, there is five fathoms on the ship.

Q. How many fathoms have you got on the ship?

A. Five.

Q. Well, you have 130 fathoms altogether?

A. One hundred and thirty-five.

Q. Did you lose 130 fathoms of chain?

A. No, we lost only ten fathoms.

Q. Now, have you got the length that was broken, the piece that was broken, any part of it?

A. No, we haven't got the broken piece; that is just the same as this one; that was good.

Q. The one that you have the end of it is good.

A. Yes, sir.

Q. Then the broken one is missing?

A. Yes, sir.

Q. Well, now, about the time that you lost your port anchor, your starboard anchor began to drag, did it?

(Testimony of C. Schwarting.)

A. Yes, we couldn't see, you see, but we thought so.

Q. You guessed so and thought so?

A. Yes, you see afterwards, after the vessel dragged, we saw the chain slacked.

Q. Then you knew that your port anchor was gone?

A. Yes, sir.

Q. And you think that it broke just about the time that you commenced to drag? A. Yes, sir.

Q. In other words, your starboard anchor wasn't sufficient to hold your ship?

A. No; you see, the ground it goes down, and slacks the chain off and you get in deeper water.

Q. In other words, what you mean is that as the ship drags it towards deeper water it pries the anchor out of the sloping bottom? A. Yes, sir.

Q. And you kept on dragging until you struck the "Mildred"? A. Yes, sir.

Q. Struck her bowsprit? A. Yes, sir.

Q. And then you dragged on until you struck the "Stimson"? A. Yes, sir.

Q. When you were anchored there with both your anchors out, how far, how many ships' lengths, were you away from where the "Stimson" was at anchor; about how far was it? A. I don't, can't say that.

Q. But your best judgment, Captain?

A. I can't say. I didn't watch all the other ships. It isn't possible. Two times we put a tackle on the chain.

Q. You don't understand me. I think, Captain, what I want to get at is, when you were at anchor here at Sal-

(Testimony of C. Schwarting.)

mon Bay, when you were riding at your anchors, how many ship lengths do you think you were from where the "Stimson" was lying at her anchors? About how far were you apart when you were both at anchor?

A. I don't can tell anything. We put these tackles on the chain when we dragged, and we couldn't look for the other vessels. We had a lot to do.

Q. Captain, you were lying there for five or six hours before you commenced to drag, were you not?

A. Not that much.

Q. From five o'clock until ten or eleven?

A. Before ten.

Q. Well, you commenced dragging you think before ten? A. Yes, sir.

Q. No; you came to anchor there just before dark, didn't you? A. Yes, sir.

Q. You saw the other three ships, didn't you?

A. Yes, sir.

Q. You saw where the "Stimson" was, the one that you afterwards ran into?

A. That ship lay far from us.

Q. About how far, three or four ship lengths?

A. Yes, about that.

Q. Three or four ship lengths away?

A. Yes, sir. If we measured we know it exactly, but if we don't measure it we don't know it. That is all guessing and nothing else.

(Testimony of C. Schwarting.)

Q. Your judgment would be about four or five ship lengths?

A. That is what I say the first time, four ship lengths, but we dragged afterwards.

Q. You mean your ship dragged?

A. Yes, sir.

Q. You don't know whether the "Stimson" dragged before you struck it?

A. No, you can't ask me that question. I don't know anything about it.

Q. Now, Captain, you say your port anchor was a 36 hundred-weight? A. Yes, sir.

Q. Without the stock?

A. Yes, that is what I have told before.

Q. When did your ship get this anchor and chain?

A. I don't know.

Q. Was it on the ship when you took command of it?

A. Yes, sir.

Q. What kind of an anchor was it, do you know?

A. It was an iron anchor.

Q. An iron anchor? A. Yes, sir.

Q. Can you describe the anchor?

A. Well, I don't know what you call this anchor. There are different anchors.

Q. I know, and that is why I am asking you.

A. I don't know the name of this anchor.

Q. Now, what was the size of your starboard anchor? What was the weight of your starboard anchor?

(Testimony of C. Schwarting.)

A. I don't can tell you. I think it was 38 cwt. without the stock.

Q. What was the length of the chain on your starboard anchor?

A. It had the same length of the port anchor, 135 fathoms.

Q. What was the size of your starboard chain?

A. Two and one-fourth.

Q. The same size chain? A. Yes, sir.

Q. The same make of anchor?

A. The same make of anchor.

Q. Captain, after you commenced dragging did you slack off your starboard chain any? A. Yes.

Q. How much, about?

A. Well, I didn't slack it; the mate did that.

Q. The mate did it, did he?

A. I don't know, the mate was forward.

Q. Captain, have you ever had any survey made of the "Rickmers," of your ship?

A. Yes, at Hull.

Q. Since you came here in Puget Sound, since December 25th, I mean.

A. Yes, the Lloyd surveyor.

Q. Who was it? A. Hill and Walker.

Q. Captain, since you collided with the "Stimson," and since the night of December 25th, you have had a survey made here, have you? A. Yes, sir.

Q. And that was done by Hill and Walker?

A. Yes, sir.

(Testimony of C. Schwarting.)

Q. When was that? A. That was on Sunday.

Q. Last Sunday? A. No.

Q. How long ago?

A. That was Christmas, that was on the 26th we came in, and that was the 29th.

Q. Have you had any repairs made, Captain?

A. Yes, sir.

Q. Where?

A. On the rigging and in the iron bolts, and the rail aft.

Q. Have you paid for these repairs?

A. No, not all.

Q. Where are the bills?

A. They haven't sent them all in yet.

Q. You have got the bills of all the repairs you have paid for?

A. I haven't got the bills but the ship's agent has.

Q. Who is the ship's agent? A. Fransioli.

Q. How much have you paid out?

A. I don't know how much he paid already.

Q. Have all the injuries to the ship been repaired so she is ready for sea? A. Yes, sir.

LLOYD'S PROVING HOUSE—Tipton.

For testing anchors and chain cables licensed by the board of trade, under the chain cables and anchors acts, 1864 to 1874. (27 & 28 Vic. Cap. 27-34 & 35 Vic. Cap. 101 and 37 and 38 Vic. Cap. 51.)

L. P. H-B (crown) T.

(Testimony of C. Schwarting.)

Machine No. 5, 1887. Tipton, 30th November, 1897.

This is to certify that the iron stock anchor described herein has been proved to the strain appropriate for such an anchor, as directed by the above acts of Parliament, at the above establishment by apparatus and machinery licensed subsequently to the 1st of January, 1873, by the Board of Trade, and is at present licensed by the Board of Trade, and has been examined, after having been tested, weighed and marked as under; and that the following particulars are correct:

	Cwt.	qrs.	lbs.		Ft.	in.
Weight of Anchor	36	0	0	length of Shank	9	10½

(ex stock)

Weight of iron stock	7	1	6	length of Arm	3	10½
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#here insert iron or wood as the case may be.

Diameter of Trend, 8 1/8"x7½"

Description Rodgers.

Deflection.

Proof Strain (applied by machine No. 5) 33,2,2.

Mark 12L. LPH—T 5.87B (crown T)

Maker's Name. Intended for ship "Robert Rickmers."

Tons.

Witness my hand,

ERASTUS R. ISIFT,

Superintendent.

This certificate is only to be used when anchors are tested in accordance with the Acts of Parliament.

Appointed by the Committee of Lloyd's Register of British & Foreign Shipping.

(Testimony of C. Schwarting.)

Passed for Ship "Robt. Rickmers," 24/8. 88. B. G.
15H Augsch, 88. Surveyor for Woch.

G. STAULSWAY,

[Seal of Surveyors, Veritas, Glasgow.]

Lloyds Register of Shipping.

LLOYD'S PROVING HOUSE—Tipton.

For testing anchors and chain cables licensed by the board of trade, under the chain cables and anchors acts, 1864 to 1874. (27 & 28 Vic. Cap. 27-34 & 35 Vic. Cap. 101 and 37 and 38 Vic. Cap. 51.)

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	Cwt.	qrs.	lbs.		Ft.	in.
Weight of Anchor	38	0	0	Length of Shank	10	0
(ex stock).						
Weight of iron stock	7	3	0	Length of Arm	3	9
#here insert iron or wood as the case may be.						
Diameter of Trend	8½"x7½"					
Description	Rodgers					
Deflection	1/16"x0"					

(Testimony of C. Schwarting.)

Proof Strain (applied by machine No. 5) 34. 10. 0. 0
Tons C " "

Mark 12V. LPH—T 5.87B (crown T).

Maker's Name. Intended for ship "Robert Rickmers."
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Passed for ship "Robt. Rickmers," 24/8. B. G.
15th Aug., 88. Surveyor's Office.

G. STAMBURN,

[Seal of Surveyors, Veritas, Glasgow.]

Lloyd's Register of Shipping.

Redirect Examination.

(By Mr. SACHSE.)

Q. Are these papers that I show you, Captain, are they the certificates for your two anchors, the port and starboard anchors?

A. Yes, this for port and this for starboard.

Q. Are they in your possession as master of the ship?

A. Yes, sir.

Q. And you can't let these papers go?

A. No, sir.

(Testimony of C. Schwarting.)

Mr. SACHSE.—We offer these papers in evidence and ask that the reporter make copies of them.

Whereupon a recess was taken until two o'clock P. M.

Two o'clock P. M.

Hearing continued, and the redirect examination of Mr. Schwarting continued by Mr. Sachse.

Q. Captain, in saying that you were lying there two to five ship lengths from the "Stimson," do you wish to be understood as making any allowance in that estimate for the cables of the ship?

A. Yes, we couldn't be ship on ship, that is not proper.

Q. In making that estimate what do you allow for the cables as allowing a ship's length?

A. In some water we have to allow more, and in low water, we don't allow as much.

Q. You said in answer to one of Mr. Hughes' questions that you intended to stay there at Salmon Bay that night?

A. No, we have to do what the steamboat signals. It blows three signals for us to let go anchors.

Q. What was done in this case? Did the tug give you signals of that kind?

A. Yes, sir. All times we can see the signals on board. If he blows three times we let go anchor.

Q. Did the tug give you any signals?

A. Yes, all the time he do it.

(Testimony of C. Schwarting.)

Q. Just before you anchored, did the tug give you any signals to anchor? A. Yes, sir.

Q. How many times did he blow?

A. Three times.

Q. Captain, why didn't you let more than one anchor go the first time?

A. Always we let one anchor go when there is not breeze enough for two anchors?

Q. Which anchor do you usually let go?

A. Always the port anchor first.

Q. Why?

A. Because it is the easiest anchor to get at again anywheres.

Q. Any difference between the port and starboard?

A. Yes, the starboard is all the time a little heavier.

Q. Captain, in this libel it is claimed that if it hadn't been for the "Stimson" your ship would have been stranded? A. I don't believe that.

Q. What have you to say about that?

A. That time we cleared the "Stimson" the anchor caught. The ground slopes out that way.

Q. Sloping upward? A. Yes, sir.

Q. After you got clear from the "Stimson"?

A. Yes, sir.

Q. How hard was the wind blowing when you first anchored; how many knots, do you know?

A. Not so many.

Q. How many?

A. I would say about six.

(Testimony of C. Schwarting.)

Q. About six knots?

A. Yes, what we call six. We have got a scale for that.

Q. What direction was it blowing from the first; when you first anchored?

A. I don't know exactly; about southerly. Whether it was just south or not I don't know. I don't can tell that.

Witness excused.

HENRY BRAUE, being called as a witness, being first duly sworn, testified as follows:

(Examination in Chief by Mr. SACHSE.)

Q. How old are you? A. Thirty-eight.

Q. How long have you been to sea?

A. Twenty-four years.

Q. What is your present occupation? What do you do now on the "Rickmers"? What position do you hold? A. I am chief mate.

Q. And were you such last month, in December last?

A. Yes, sir.

Q. Is this your first voyage with the "Rickmers"?

A. On this ship, yes, sir.

Q. How long have you been a first mate?

A. Eleven years.

Q. You remember about the "Rickmers" coming into Puget Sound? A. Yes, sir.

Q. How was she—in ballast or not?

A. She was in ballast.

(Testimony of Henry Braue.)

Q. How much ballast?

A. Sand and stone mixed.

Q. Where did you first anchor before you landed at Salmon Bay?

A. Between Dungeness and Angelus?

Q. How many anchors?

A. One anchor; sixty fathoms chain.

Q. Did anyone take you in tow?

A. The tug came about 11 o'clock alongside.

Q. In the night?

A. No, in the morning, the first one, the "Rabona."

Q. The Puget Sound tugboat, when it came to get you? When did it come to get you?

A. Came at 11 o'clock at night; near 11 o'clock.

Q. Were you on deck when they began towing her and the lines were passed? A. Yes, sir.

Q. Did you hear the arrangements that were made between the captain and the tugboat company?

A. Yes, around tow \$700; \$300 in and \$400 out.

Q. To what point?

A. Twenty miles off Flattery.

Q. To what point in? A. To Tacoma.

Q. The tug took you? A. Yes, sir.

Q. How far did it bring you?

A. Brought us up in tow the next morning to Port Townsend and anchored there at 3:30 in the morning.

Q. 3:30 in the morning? A. Yes, sir, 3:30.

(Testimony of Henry Braue.)

Q. And then what time did you leave Port Townsend?

A. Nine o'clock in the morning of the same day.

Q. And you arrived where?

A. At Salmon Bay at four o'clock.

Q. How was the weather from the time you left in tow of the "Tacoma" to the time that you arrived at Salmon Bay as to being rough or calm?

A. The weather was all right. The wind was about southeast.

Q. How much of a wind was there?

A. From three to four knots at first, and after 12 o'clock I had my watch below.

Q. After twelve o'clock until when?

A. To four o'clock I was below.

Q. Were you on deck when you anchored first up in Salmon Bay? A. Yes, sir.

Q. How was the weather then?

A. A free breeze.

Q. How strong a wind was blowing?

A. Six to seven.

Q. How many anchors did you put out?

A. One anchor.

Q. What happened then?

A. She was dragged then when at anchor.

Q. How long after the anchor was put out?

A. About five minutes.

Q. Did anything happen to the machinery or to the appliances on the ship?

(Testimony of Henry Braue.)

A. The compressor was carried away.

Q. You say carried away, what do you mean?

A. It split.

Q. What is the usual custom about putting out anchors? Do they usually put out more than one anchor?

A. When we got to the land there wasn't much breeze. We had more shelter than we had when were in tow of the tug, therefore we only put out one anchor.

Q. Did you make this drawing (showing drawing to witness)?

A. Yes, sir.

Mr. SACHSE.—We offer this in evidence and ask that it be marked as an exhibit.

(Drawing identified by witness marked as Claimant's Exhibit No. 5.)

Q. Are these your figures on this paper that I show you?

A. Yes, sir.

Q. What do these figures mean?

A. That is the length of the wooden block pulley where this iron is on top; that is four feet and five inches, length of it and the breadth is one foot four inches, and the height is one foot, eight inches.

Q. Can you indicate on this where this compressor broke or split? Show with this red pencil.

A. Right on the middle, and the split right up from the deck.

Q. What caused it to split?

A. The strain on it.

Q. Of what working over it?

(Testimony of Henry Braue.)

A. From the chain.

Q. From the port anchor? A. Yes, sir.

Q. What kind of wood was this block made out of?

A. What they call green heart wood.

Q. Have you got a sample of that wood?

A. Yes, sir.

Q. I would like to see that sample please?

(Witness produces a piece of wood.)

Q. This piece of wood which you show me, what part of the compressor was that?

A. It didn't belong to the compressor, but that is the kind of wood.

Q. Was the wood in the compressor in as good a state as this wood? Was it as good?

(Objected to as immaterial.)

A. I couldn't see anything wrong with it; it was all right.

Q. Have you any piece of wood of the compressor?

A. No, sir.

Q. What become of the compressor block?

A. It was split.

Q. What was done with it?

A. Taken off and a new one put on.

Q. What did you do with the old wood?

A. It was in the old rubbish; they cleaned it away and chucked it over the side.

Q. Thrown away?

A. Yes, thrown away.

(Testimony of Henry Braue.)

Q. This figure No. 2 on this paper, that you just identified, what does that represent?

A. That means the fastening on the deck, through the iron and through this block, to the fastening on the deck, and there is three bolts goes through this fastening.

Q. Those parts which are marked A and B, what are they, of wood or iron? A. Of iron.

Q. Are you familiar with compressors on ships of this kind? A. Yes, sir.

Q. How did this compressor on the "Rickmers" compare with compressors on ships of that size and class?

A. I would say it was all right and strong enough.

Q. Was it as good as the general run of compressors?

A. Yes, sir.

Q. Do you know the cables, the size of the cables on the anchors? A. Two and one-fourth inches thick.

Q. Were they what they call studded chains?

A. Yes, sir.

Q. How big was the stud through the center of the links?

A. Very near the same as the chain.

Q. After the tug left you the first time, and after your one anchor chain broke, did the tug put you back in the same position that it had put you in first, or a little different position?

A. I can't tell exactly; might have been a little bit in another position they put us in. I can't tell exactly.

Q. And that time you left both anchors go?

(Testimony of Henry Braue.)

A. Yes, sir, heaved in the slack over the port chain and let go the starboard anchor.

Q. You heaved in the slack on the port chain and let go the starboard anchor? A. Yes, sir.

Q. How many fathoms of chain did you have out?

A. On the port side 40 and on the starboard 30.

Q. In how deep water were you?

A. I don't know exactly, but in amidships there was 14 and in the stern 16.

Q. Now, when the tug left you the second time did the captain of the tug say anything at that time about the place of anchorage, whether it was good or bad?

A. Well, I didn't hear anything about the place and thought the place was all right.

Q. Did you hear the captain of the tug say that?

A. After that when he came back.

Q. When was that, the next morning?

A. Yes, sir.

Q. He told you he left you in a safe place?

A. Yes, and he said he passed us in the night at ten o'clock and he saw that the lights were burning and the two anchors out and he thought we were in a safe place.

Q. When the two anchors were out what happened after that? How long before anything happened to the ship? A. Until ten o'clock.

Q. Then what happened?

A. Then the tackle carried away on the port chain.

Q. How was this tackle arranged on the port chain after the compressor broke, do you know?

(Testimony of Henry Braue.)

A. Do you mean how it was fastened?

Q. Yes.

A. With a big strap, four inches and a half of rope around the chain, and the chain strapped around the foremast and hooked to tackle on the 4½ inch strap and the chain and the mast.

Q. What was the size of the hook on that tackle?

A. About 1½ to 1¾; I am not sure.

Q. What was it that broke about the tackle?

A. The hook broke.

Q. And as I understand you, that hook was hooked into the cable of the anchor?

A. No, it was a strap fastened on the cable, around the cable, and in that strap the hook was.

Q. Well, after you began dragging, then what happened?

A. We got to windward of the schooner; a three-masted schooner.

Q. Do you know which schooner that was?

A. It was the "Mildred," I guess they call it.

Q. Did you notice how the "Mildred" was anchored at that time? Whether she had out one or two anchors?

A. She was holding on one anchor, and all the ships that I saw there were holding with one anchor.

Q. You didn't see, did you, how the "Stimson" was anchored; whether with one or two anchors?

A. No, I couldn't tell.

Q. You have looked at Libelants' Exhibit No. 1 as to

(Testimony of Henry Braue.)

the location of the "Rickmers" and the other schooners in that bay at that time? A. Yes, sir.

Q. And have indicated in red pencil marks the location, have you? A. Yes, sir.

Q. How long after you began drifting was it before you came in collision with the "Stimson"?

A. Well, I guess half an hour or so; three-quarters of an hour. I can't tell exactly.

Q. Were you on deck?

A. Yes, I was on deck at the time. I was busy with the chain putting a tackle on.

Q. When you got near the "Stimson" did you, or anyone on deck, yell out to the "Stimson"?

A. Yes, I sang out the "Stimson" to slack chain, we were drifting.

Q. What did they say to you?

A. They said they couldn't slack no more.

Q. Do you know how much cable they had out at that time? A. The "Stimson," no.

Q. How was the wind blowing at that time?

A. There was a hurricane blowing.

Q. When did you discover that you had lost your port anchor? When did you find out?

A. After I put the second tackle on I didn't feel the strain on the chain, and then it was before that, but I can't say for sure, and I thought it was gone, and I looked over the bow and I saw the chain was hanging up and down.

(Testimony of Henry Braue.)

Q. You say you put on the second tackle. When was it you put on the first tackle?

A. As soon as we were at anchor with the port chain.

Q. Do you mean that you put the tackle on before any damage was done?

A. The damage was done when the compressor was broke, when we put on the tackle.

Q. Then the first tackle broke; the hook and the first tackle broke after you began drifting the second time?

A. We never stopped, we were always drifting. The first time were together with the schooner, and we never stopped. We were drifting right away.

Q. Do you know from your experience whether or not it is customary to put on a tackle on an anchor cable in cases of that kind, where a compressor gives way?

A. Yes, sir.

Q. State whether or not you put the tackle on in the usual and customary way? A. Yes, sir.

Q. State whether or not you put the tackle on in the usual and customary way. A. Yes, sir.

Q. How long were you in collision with the "Stimson"; that is, up against her I mean?

A. Maybe close on an hour and a half.

Q. And then when you got free from her what happened then?

A. She was dragging further. We showed blue lights and rockets.

Q. You mean the "Rickmers" was dragging further?

(Testimony of Henry Braue.)

A. Yes, sir.

Q. Did you finally fetch up? Did your anchor finally hold?

A. When it was nearer to the beach. About half an hour after she was clear of the "Stimson."

Q. That she came to anchor? A. Yes, sir.

Q. What would you say as to the "Stimson" keeping you from being stranded?

A. The "Stimson" could do nothing with us, our anchor was holding all right, and the "Stimson" didn't hold us at all. The schooner will catch the ground anyway going up that way to the ground.

Q. After you anchored with the two anchors, up to the time you began drifting, and while the anchors held, how was the wind at that time?

A. The wind was getting stronger always; always getting stronger.

Q. How high a rate was the wind blowing up to ten o'clock?

A. From seven to ten by the Beaufort scale.

Q. Between what times?

A. Between five o'clock to ten.

Q. It was blowing from seven to ten?

A. Up to ten and eleven on the Beaufort scale; it is numbered from one to twelve, and the wind was from seven to ten.

Q. It got up to ten.

A. Yes, up to ten and eleven.

(Testimony of Henry Braue.)

Cross-examination.

(By Mr. HUGHES.)

Q. What are the dimensions of your ship? How big is your ship? A. She is 2176, I guess.

Q. Net register? A. Net register, yes.

Q. How long is she? A. She is 276.

Q. Over all? A. Over deck.

Q. What is the breadth of beam?

A. Forty feet.

Q. And she had at this time 1130 tons of ballast?

A. Yes, sir.

Q. What is her carrying capacity? How much will she carry? How many tons of freight?

A. Three thousand four hundred.

Q. You left your anchorage and was taken in tow by the "Tacoma" about ten o'clock on the night of the 24th?

A. 11:30.

Q. You were taken in tow by the "Tacoma" about 11:30? A. Yes, sir.

Q. How long had you been at anchor at that place?

A. From 10:30 to 11:30. From 10:30 in the morning until 11:30 at night.

Q. What kind of weather was it when you went to anchor there?

A. It began to freshen from the west. It was calm in the morning before we came to anchor.

Q. And when you anchored there it was fresh from the west? A. It freshened up from the west.

(Testimony of Henry Braue.)

Q. About how was it blowing? A. About five.

Q. Five or six by the Beaufort scale?

A. Five by the Beaufort scale.

Q. What preparation did you make for coming to anchor, before you cast out your anchor, what did you do before you cast out your anchor?

A. Took in the sails.

Q. How much sail had you taken in before you put out your anchor?

A. The upper top sail was standing, the four upper top sails and all the rest were down, and the yards were all back.

Q. About what speed was your ship going when you put out your anchor?

A. She was laying still.

Q. Didn't you have wind enough to carry her with these upper top sails?

A. Yes, but it was laying still.

Q. What anchor did you put out?

A. The port anchor.

Q. What tack had you been sailing on just before you put out your anchor and took in your sails, do you remember?

A. No, I am not sure. The wind was all around from one side to the other.

Q. How near were you into shore when you put out your port anchor? A. About half a mile.

Q. What depth of water did you find there?

(Testimony of Henry Braue.)

A. Sixteen fathoms.

Q. Had you been sounding before that?

A. Yes, sir.

Q. How long had you been sounding?

A. Two or three times before.

Q. For how long a time had you been taking soundings?

A. We always take our bearings and we always know where we are, and we heave the lead, and we found we had to go closer to shore.

Q. Did you go in there for the purpose of getting anchor ground?

A. Yes, of getting good anchor ground.

Q. You went in there for the purpose of coming to anchor, did you?

A. We went there to come to anchor.

Q. What kind of bottom did you have there?

A. The chart shows it.

Q. Do you know? A. It was, I guess, gravel.

Q. Were there many rocks there?

A. No, not that I know.

Q. Did you put out any other anchor than your port anchor? A. No, sir.

Q. How many fathoms did you put out?

A. Sixty fathoms.

Q. Did the wind increase any during that time? How was the weather that day?

A. The weather was all right. The wind slacked after that towards evening, and it was a dead calm at night.

(Testimony of Henry Braue.)

Q. Now, you got in Port Townsend about 3:30 in the morning? A. Yes, sir.

Q. And left there on your way up Sound at nine o'clock in the morning? A. Yes, sir.

Q. You went off duty at twelve o'clock?

A. Yes, sir.

Q. And remained off duty until four?

A. Yes, sir.

Q. Where were you when you came back on deck at four o'clock? Where was your ship?

A. The ship was going right across to Salmon Bay.

Q. About how far was it off from the west point light-house there when you first came back on deck at four o'clock? A. Three miles; three or four miles.

Q. How was the wind blowing then?

A. The wind was from the south; or south southwest.

Q. How much wind was there?

A. From six to seven.

Q. Six to seven by the Beaufort scale?

A. Yes, sir.

Q. Blowing a pretty stiff breeze then?

A. Yes, sir.

Q. You went in there under the lee there to come to anchor? A. Yes, sir.

Q. When you got in there you were well sheltered?

A. Yes, sir.

Q. It was pretty calm when you stopped and put out your port anchor? A. You couldn't say calm.

(Testimony of Henry Braue.)

Q. Well, comparatively well sheltered by the bluff.

A. Yes, but the puffs were always coming around the point.

Q. You first put out your port anchor?

A. Yes, sir.

Q. Was that the time your compressor block split?

A. After that she was dragging.

Q. But when you first put out your anchor, was that the time when this compressor block split here?

A. Yes, when the strain was on it.

Q. Just as soon as you put out the anchor and the anchor caught and began to get the strain of the ship it split this block?

A. Yes, a puff came around the point. It wasn't a strong breeze always.

Q. But this block split just as soon as your ship took up the chain and pulled on the chain? A. Yes.

Q. That was the first thing that happened?

A. Yes.

Q. And that happened right after you put out your anchor? A. Yes.

Q. Well, what did you do immediately?

A. After that split?

Q. Yes.

A. We were busy putting a tackle on. And the same time the tugboat came back and took hold of us and towed us up.

Q. Did your anchor drag when this split, or did you run out some more chain?

(Testimony of Henry Braue.)

A. Some more chain ran out.

Q. You ran out some more chain?

A. No, it ran out itself.

Q. How much of it ran out?

A. I can't tell you; but ten or fifteen fathoms.

Q. As a matter of fact, your anchor didn't drag at all?

A. Yes, sir.

Q. What was there to hold your chain if your compressor block was split? What stopped your chain from running out?

A. The first time when she was dragging?

Q. Right after this compressor block split you say that ten or fifteen fathoms of your chain ran out? How did it come to run out?

A. The same time the tugboat came up and got hold of us and picked us up.

Q. Then, as a matter of fact, from the time that this compressor block split you had only drifted as much as ten or fifteen fathoms until the tugboat picked you up and towed you back?

A. Yes, sir.

Q. Then, as a matter of fact, your anchor didn't drag at all at that time?

A. I don't know.

Q. What was said between you and the tugboat people at that time, when you told them to take you up again?

A. To tow us higher up.

Q. You told them to tow you higher up?

A. Yes, sir.

Q. A little nearer in shore?

(Testimony of Henry Braue.)

A. To tow us higher up and put us in a good place, and then he sang out to "Let go your starboard anchor."

Q. At this time?

A. No, when he took us higher up.

Q. When you first called him, when you say your block was split, you called him to pick you up again and you asked him to tow you a little further up?

A. Yes, sir.

Q. And he came up and put his hawser on board of you again?

A. Yes, sir.

Q. Was there anything else said between you or your captain and the tugboat captain, except to tow you further up?

A. In a good place.

Q. Did you say anything else?

A. No, sir.

Q. Nothing else was said at all?

A. No, sir, I don't know. I was busy in the fore-castle and I don't know what the captain said.

Q. Was anything else said about the block being split?

A. I don't know.

Q. You just told the tugboat to tow you up in a better place?

A. Yes, in a better place, that our block was split and the compressor carried away.

Q. Well, he towed you back to about the same place? He towed you up ten or fifteen fathoms further in shore than you were at that time?

A. Yes, sir.

Q. And then you dropped your starboard anchor?

(Testimony of Henry Braue.)

A. Yes, after he sang out to "let go your starboard anchor." The tugboat sang out to "let go your starboard anchor."

Q. And at that time you had out your port anchor?

A. Yes, sir.

Q. Had you got your port chain made fast by that time; by the time the tugboat sang out to "let go your starboard anchor" you had made your chain fast, hadn't you, your port chain?

A. We were busy on it to make it fast.

Q. But you didn't let go your starboard anchor before you made it fast? A. No, sir.

Q. Then you made it fast before you let go your starboard anchor?

A. It wasn't quite fast. We were busy on it making it fast, but wasn't fast then.

Q. But at any rate you made it fast before the tug let go of you? A. Yes, sir.

Q. And when you had it made secure you notified the tugboat that you had made your port chain secure, and then he let go his hawser?

A. Yes, sir.

Q. Before he let go his hawser, you took up that ten or fifteen fathoms that ran out?

A. Yes, before he towed us in. The same time he towed us up we heaved in the slack on the cable.

Q. And then he held you with his line until you put out your starboard anchor, and until you made fast your port chain? A. Yes, sir.

(Testimony of Henry Braue.)

Q. Until you fastened it up as you described.

A. Yes, sir.

Q. Now, I don't know as you have made perfectly clear how you made this fast after your compressor block broke. What did you do to secure this port chain after this compressor block split?

A. We put a 4½ inch strap, manila strap, around these links.

Q. Did you put it around the block also?

A. No, but on the chain.

Q. Did you remove the block?

A. No, couldn't do anything with the block; it was all in pieces.

Q. Split into pieces? A. Yes, sir.

Q. Now, you made fast a 4½ inch manila cable around these links?

A. Yes, sir, and slipped and shoved an iron bar through it so it couldn't slip; through the links like this, and hooked the tackle on here and a chain strapped around the mast, and the other block there, and heaved that tight.

Q. So that was held in position, the port chain, by a 4½ inch manila cable? A. Yes, sir.

Q. You mean 4½ inches in diameter?

A. Yes, sir.

Q. Four and a half? A. Yes, sir.

Q. How far from seven, on until ten, you say the wind kept increasing, blew harder?

A. Yes, freshened up.

(Testimony of Henry Braue.)

Q. And about ten o'clock your ship began to drag, did it?

A. The same time when the tackle carried away it began dragging.

Q. You mean this 4½ inch manila hawser broke—parted?

A. No, the hook carried away.

Q. The hook that fastened it to the mast?

A. No, the hook that was fastened on the strap.

Q. From the tackle that fastened onto the chain?

A. Yes, that carried away.

Q. That was in addition to this manila rope, wasn't it?

A. It was hooked into the manila rope.

Q. That held it one way, and the other was fastened onto the foremast?

A. Yes, sir.

Q. Was one of the fastenings that was hooked onto this manila rope carried away?

A. Yes, sir.

Q. But that didn't let the chain loose, did it?

A. Then about five fathoms of chain ran out after that.

Q. About five fathoms of chain ran out after that?

A. Yes, sir.

Q. That would change its position, but the port chain was still fast to the ship?

A. We secured it up with a windlass.

Q. You had to haul it again with the windlass?

A. No, we never haul anything with a windlass. After the anchor is down we secure the compressor; after the windlass is fast we turn this compressor up and let the strain go on that and take the slack off from

(Testimony of Henry Braue.)

the windlass. After that tackle carried away this stopper on the windlass was fast. Here is the windlass, but it wasn't strong enough, and about five fathoms slipped out. Then it holds and then we start to put on another tackle, and the same time we put on another tackle, the ship was dragging.

Q. While you were putting on the tackle, the ship began to drag? A. Yes, sir.

Q. Now, you noticed then, about that time, that this port chain hung loose over the side of the ship?

A. After that.

Q. When did you notice that?

A. After she was clear of the first schooner.

Q. You didn't notice it before that?

A. No, I was below.

Q. You don't know just when the chain itself parted, just when the iron chain broke, do you?

A. I don't know what time the iron chain broke, but I know what time the hook broke, but nothing about the chain.

Q. The hook that broke, was the hook that held fast the strap that was one of the bearings made fast upon the chain? A. Yes, sir.

Q. But what I am talking about is not the tackle and not the hook which caused about five fathoms more of the chain to slack off from the windlass as you have stated, but the parting of the chain itself, so as to lose your port anchor. When was it you first noticed your port anchor was gone?

(Testimony of Henry Braue.)

A. I didn't notice before we had the chain pulled in the next morning.

Q. You didn't know until the next morning?

A. No, sir.

Q. I thought you said you saw the chain was hanging loose on the side of the ship?

A. There wasn't much strain on it but I didn't know whether it was gone or not.

Q. You knew the anchor must be gone by the way the chain hung over the side of the ship?

A. I didn't know at that time, but afterwards we saw that it was gone.

Q. And you reached the conclusion afterwards that it must have broken about the time you commenced dragging, or shortly afterwards, along about that time?

A. Maybe; I don't know. I can't say.

Q. How much chain did you lose with that anchor?

A. Ten fathoms of chain.

Q. What was the total length of this port chain?

A. One hundred and thirty-five fathoms.

Q. And the starboard chain was the same length?

A. One hundred and thirty-five fathoms.

Q. When was the last time you had examined this chain prior to this?

A. Just a couple of days before we came in.

Q. A couple of days before you came into the Straits?

A. Yes, sir.

(Testimony of Henry Braue.)

Q. About how far was your ship from the "Mildred" when you were riding at anchor before you commenced drifting, or before your anchor chain parted?

A. About four to five hundred feet.

Q. As you rode at anchor, you headed towards the land, I suppose. That is, the wind came from a southerly direction?

A. Yes, sir.

Q. And you were heading towards the land?

A. Toward the land, yes, sir.

Q. Of course the "Mildred" headed in the same way?

A. Yes, sir.

Q. Which side of you was the "Mildred"?

A. On the port side.

Q. Was she further out from the land?

A. She was laying a little behind us.

Q. A little behind you and on your port side?

A. On the port side, yes, sir, but the ships were swinging a little, sometimes it was right aft and sometimes it was on the port side.

Q. The ships were swinging and bouncing on the anchor chains?

A. Yes, sir.

Q. When your ship and the "Mildred" were laying in about the same direction, you think the distance between the stern of your ship and the bow of the "Mildred" would be about four or five hundred feet?

A. About four hundred feet.

Q. Now, you first dragged down onto the "Mildred," didn't you?

A. Yes, sir.

Q. Struck her bowsprit and broke it?

(Testimony of Henry Braue.)

A. Yes, sir.

Q. Then you veered out from that and drifted over onto the "Stimson"? A. Yes, sir.

Q. Before you go further, Mate, will you tell me what direction the "Stimson" was from you when you were riding at anchor before you parted your anchor chain, or drifted—say up to ten o'clock?

A. I don't know where she was lying.

Q. You know about what direction she was?

A. It is marked up on the chart there.

Q. When you were heading the same way she was, that is, when the wind got you, just the same way, she was pretty near aft of you?

A. She must have been pretty near aft of us.

Q. She wasn't off on your port side?

A. On the port side, I guess she was.

Q. You think she was a little on the port side too?

A. Yes, the "Stimson," I guess, was on the port side a little.

Q. A little on the port quarter?

A. Yes, a little, I think. The ship was swinging and it was sometimes on the port quarter.

Q. About how far did you have to drift from the "Mildred" before you struck the "Stimson"?

A. Well, it is over half a mile.

Q. You think it was over half a mile from the "Mildred" to the "Stimson"? A. Yes, sir.

Q. How long did it take you to drift that distance

(Testimony of Henry Brauc.)

after you got away from the "Mildred" and before you struck the "Stimson"?

A. I guess it took us close on a half hour.

Q. What were you doing on board your ship during that time?

A. Slacking out chain on the starboard.

Q. How much did you slack out your starboard chain?

A. Over thirty fathoms.

Q. It was thirty fathoms in the first place?

A. Yes, sir.

Q. Did you let out some more?

A. Yes, but I don't know how much more.

Q. About how much more do you think you slacked out your starboard chain before you struck the "Stimson" while you were dragging?

A. She must have had ninety fathoms before we got hold of the "Stimson."

Q. You think that during the time you were dragging there that you slacked out about sixty fathoms of chain?

A. Yes, sir.

Q. Did you do anything else?

A. We were busy with the other anchor and with the tackle, and tried to slack chain, but there wasn't any strain.

Q. There wasn't any strain on the port chain?

A. No, sir.

Q. Then you knew that the port anchor was gone?

A. Yes, sir, for there was no strain from that one.

(Testimony of Henry Braue.)

Q. Did you do anything else during the time you were drifting, during the half hour when you were dragging on your starboard anchor?

A. No, we couldn't do anything else.

Q. You say you were drifting toward the "Stimson"?

A. No, I don't know anything about that.

Q. Well, the "Stimson's" lights were burning?

A. I didn't see them at that time.

Q. You saw them some time before you reached the "Stimson," didn't you?

A. Not that time we were dragging; I had not time to look at the "Stimson." I saw the ship there, and I went up and sang out to slack out chain.

Q. Who commanding on deck?

A. The captain was on deck.

Q. Were any sails put out to alter the course of your ship so she wouldn't strike the "Stimson"? A. No.

Q. Where did you strike the "Stimson"?

A. Struck her on the starboard side first on the bow.

Q. First on the starboard bow? A. Yes, sir.

Q. And then you bounced off from her and came back a little further down on her starboard side, did you?

A. You were right alongside of the "Stimson"; we were first laying a little bit off from the "Stimson," and then bounced right alongside of the "Stimson."

Q. Your port quarters struck her starboard bow, is that it?

A. No, not the quarter, the midships. She was over the midships. Not the quarter.

(Testimony of Henry Braue.)

Q. You struck her midships of your own ship?

A. Yes, sir.

Q. First struck her on her starboard bow?

A. Yes, sir.

Q. And then you kept working down along her starboard side?

A. Yes, sir.

Q. Your rigging caught in her rigging?

A. Yes, sir.

Q. And kept catching as you slid along by the side of the "Stimson"?

A. Yes, sir.

Q. And it held fast there for about an hour and a half?

A. Yes, sir.

Q. No, while you were in that position the "Stimson" also went to dragging?

A. I don't know.

Q. Well, you know that both the ships drifted down there for seven or eight or nine miles?

A. Yes, but I don't know what time she was dragging.

Q. But you were locked together there, and drifted for seven or eight miles together, didn't you?

A. No, I don't think it was that much. How can we drift seven or eight miles in one hour?

Q. At any rate, you drifted down along the shore?

A. Yes, sir.

Q. You drifted until the "Stimson's" anchor caught and stopped her, didn't you?

A. What's that?

Q. The "Stimson" stopped first, didn't she?

A. I don't know anything about that.

Q. You drifted on below the "Stimson"?

(Testimony of Henry Braue.)

A. Yes, the "Stimson" stopped before us.

Q. The "Stimson" stopped first? A. Yes, sir.

Q. Her anchor must have caught and held?

A. After we cleared the "Stimson," the "Stimson" was stopped.

Q. After you cleared the "Stimson," the "Stimson's" anchor held, or did she stop before you cleared her?

A. I don't know.

Q. Well, along about that time anyway, she stopped?

A. Yes, sir.

Q. And then you got clear of her? A. Yes, sir.

Q. And then you drifted a little further and your anchor caught and held your ship? A. Yes, sir.

Q. And you have located the places where you think the "Stimson" and your ship stopped after you had dragged together there for an hour and a half?

A. Yes, sir.

Q. About an hour and a half you were dragging together? A. I guess so, some time like that.

Q. How did you get loose from the "Stimson." Did the ships get loose themselves, or did you do anything to get away from the "Stimson"?

A. We couldn't do anything.

Q. The ships simply tore loose themselves?

A. Yes, sir.

Q. Your ship tore loose from the "Stimson"?

A. Yes, sir.

Q. As a matter of fact, your crew were trying to hold fast to the "Stimson"? A. Our crew?

(Testimony of Henry Braue.)

Q. Yes, to make fast to and hold fast to her?

A. No, we never made anything fast to the "Stimson."

Q. What were you doing while the two ships were drifting, after you had collided and come against the "Stimson," and all the time while you were drifting down to where the "Stimson" held up again, this hour and a half that you were together?

A. For a while when we cleared a little from the "Stimson" we slacked our chain and tried to get clear of it then; after we slacked chain it was the same.

Q. Well, were you doing anything with your anchor or with your chains?

A. How about anchor chains?

Q. Did you do anything with your starboard anchor chain while you were drifting along there?

A. How along there? I don't understand what you mean?

Q. What I am trying to get at is this: After you came into collision with the "Stimson"—what I want to know is when the two ships were lugging together there, and were drifting for about an hour and a half, what were you doing on board your ship? Now, I will ask you before what were you doing from the time you broke loose up to the time that you struck the "Stimson"? Now, I am asking you what you were doing on board your ship after you struck the "Stimson," and during the hour and a half you were drifting together?

A. I don't understand that.

Q. You don't know what I mean?

A. No.

(Testimony of Henry Braue.)

Q. Now, you say that your ship and the "Stimson" were fastened, your rigging fastened into her rigging, and you drifted there together for about an hour and a half?

A. Yes, sir.

Q. You understand that? A. Yes, sir.

Q. Now, I want to know what your crew were doing on board your ship during that time; what were you working at?

A. We tried to clear everything that we could clear.

Q. Tell us what you did?

A. I don't know what we did at that time. I was in an awful hurry at that time and I don't know exactly the things.

Q. What were you hurrying at?

A. To find soundings.

Q. Besides taking sounding, what else did you do, anything? A. We slacked out the chain.

Q. You did slack out your starboard chain, didn't you?

A. Yes, we slacked out our starboard chain.

Q. You have stated that before you struck the "Stimson" you had slacked out about 90 fathoms?

A. Yes, sir.

Q. How much more did you slack out after that—any?

A. I can't tell, exactly, for I couldn't watch the chain; it was windy and dark, and the lamps blowed out. I guess about thirty fathoms.

(Testimony of Henry Braue.)

Q. How much chain did you have out when your ship finally came up and held?

A. About 120 fathoms.

Redirect Examination.

(By Mr. SACHSE.)

Q. You were asked if you examined the cables a short time before this accident? A. Yes, sir.

Q. And you answered that you had examined them?

A. Yes.

Q. What condition did you find them in?

A. In good condition.

Q. You said that no sails were put out on the "Rickmers" to alter your course. Why didn't you put out any sails before you struck the "Stimson"; or was it possible to do so? A. No, it wasn't possible.

Q. Why? A. It was blowing a hurricane.

Q. Did I understand you to say that the "Stimson" fetched up before you got separated from her or afterwards?

A. I don't know what time she fetched up.

Q. Do you know whether it was before you got separated from her or afterwards?

A. She must have fetched up before us.

Q. Was that when you were still locked together when she came to anchor?

A. Well, I don't know. I can't tell you.

Q. This block which is called the compressor here, having the iron jaws on it to hold the cable chain, what is

(Testimony of Henry Braue.)

the object of those iron jaws? Is that simply to hold the chain on board, or for what purpose is it?

A. To tighten this up. The spindle here with the handle on it, to wind it up.

Q. The chain is fastened on the windlass?

A. Yes, sir.

Q. The jaws are on this to keep it from slipping out too fast? A. Yes, sir.

Q. When you were in collision, or locked together with the "Stimson," was it possible to make any efforts to get the ships apart? A. No.

Q. Why?

A. We were on the windward side from the "Stimson" and blowing right against her.

Q. But the wind finally separated you, did it, or how did it come that you got apart?

A. I don't understand.

Q. How did you get apart in the end?

A. After we cleared the rigging.

Q. Was anything done to get them separated?

A. Slacked out chain.

Q. Was anything done to clear the rigging?

A. We let go the braces and that is all we could do, for his mast was on our jib-boom and we couldn't get our jib-boom away. Our jib-boom stuck between his masts, and we couldn't do anything unless the mast was chopped down, was the only way to clear it.

(Testimony of Henry Braue.)

Q. Did you see the captain of the tugboat the next morning? A. Yes, sir.

Q. What did he say at that time after he found you had been drifting?

A. He said he was coming along at ten o'clock and he saw our lamps burning and we had out two anchors, and he thought we were in a good position there and he went away.

Q. Where did he say he was going to?

(Objected to as incompetent, irrelevant and immaterial and as hearsay.)

A. He said he was going to Port Townsend.

Q. The next morning what did he say?

(Objected to as hearsay.)

A. It was blowing and stormy, he says, and he saw there were several ships there getting damaged.

Q. Did he say he had been out to the ocean to get another ship?

(Objected to as hearsay.)

A. He had been out, but if he had got another ship I don't know.

Q. What tug was it towed you down here—the "Tyee"? A. Yes, sir.

Recross-examination.

(By Mr. HUGHES.)

Q. It was the "Tacoma" that towed you up to this point? A. Yes, sir.

(Testimony of Henry Braue.)

Q. You are talking now about what some tugboat said to you? You don't mean the tugboat spoke. Was it the captain spoke to you? A. Yes, sir.

Q. The captain of what tugboat?

A. The "Tacoma"; the next morning he brought us down and the "Tyee" got hold of us and the "Tacoma" went away.

Q. Was it the captain of the "Tacoma" or the captain of the "Tyee"?

A. The captain of the "Tacoma."

Q. What did he say?

A. He said he was out to sea, to see some ships, to look for some other ships that had got damaged, and he passed us at ten o'clock. He was passing us down towards Port Townsend.

Q. What did he say about some ships getting damaged?

A. He said he heard about some ships getting damaged.

Q. He said he heard about some ships getting damaged? A. Yes, sir.

Q. And he told you he was going to Port Townsend at ten o'clock that night?

A. I don't know if he went to Port Townsend; he said he passed us at ten o'clock.

Q. Was it the same man who left you there?

A. Yes, he told me he passed us at ten o'clock.

Q. When did he leave you there, on the 25th?

A. About five o'clock.

(Testimony of Henry Braue.)

Q. Where did he go?

A. At ten o'clock he passed us.

Q. Where did he go?

A. He went over to shore; I don't know the name of the place.

Q. Ballard?

A. Yes, to telephone up for assistance, and at ten o'clock he passed back and went down towards Port Townsend.

Q. That is what he told you the next morning?

A. Yes, sir.

Q. Did he tell you in the presence of the captain of the tugboat "Tyee"? He was there also when he told you that? A. No, sir.

Q. Who else was there?

A. The second mate was there.

Q. It was the "Tyee" that took you in tow, wasn't it?

A. Yes, but the first time they pulled us up in shoal water.

Q. The next morning, who was it first took hold of you, the "Tyee" or the "Tacoma"?

A. The "Tyee," but the captain of the "Tacoma" was right alongside of us and he came on board.

Q. He came on board? A. Yes, sir.

Q. And it was then he told you he passed by you at ten o'clock the night before and he saw that your lights were burning and that you were riding at anchor all right? A. Yes, sir.

(Testimony of Henry Brane.)

Q. And so he went on his way? A. Yes, sir.

Q. Did he tell you anything else about what he saw there that night?

A. He said several things; but I forget what he was saying. He told me about taking up a fisherman who got lost or something.

Q. Do you know what the name of that captain was who told you this? A. No.

Q. Was it Captain Morrison?

A. I don't know his name.

Q. At any rate, it was the same man who was in charge of the "Tacoma" on the afternoon when you were towed up, on the afternoon of the 25th?

A. Yes, sir.

Witness excused.

FRED SCHANK, being called as a witness, being first duly sworn, testified as follows:

(Examination in Chief by Mr. SACHSE.)

Q. How old are you? A. Twenty-five.

Q. How long have you been at sea?

A. Eight years.

Q. How long have you been second mate?

A. Three years.

Q. You were on the "Rickmers" on December 24th and 25th last, were you? A. Yes, sir.

Q. As second mate? A. Yes, sir.

Q. You are still employed on it? A. Yes, sir.

Q. As second mate? A. Yes, sir.

(Testimony of Fred Schank.)

Q. Do you remember when the "Rickmers" was taken in tow by the tug between Dungeness and Port Angelus? A. Yes, sir.

Q. Were you on watch at that time?

A. Yes, sir. I was on watch from eight o'clock that night.

Q. How was the weather then?

A. It was dead calm that night.

Q. Had the ship been at anchor there?

A. Yes, we went to anchor in the morning about eight o'clock, I guess.

Q. How many anchors did you have out?

A. One anchor.

Q. How did you come to the sound; in ballast or otherwise? A. We had ballast.

Q. How much ballast did you have?

A. I think about 1100 tons.

Q. You were taken in tow by the "Tacoma" and where were you brought to?

A. We were brought up to Port Townsend.

Q. And then where next were you taken to?

A. There we stopped until about nine o'clock in the morning.

Q. And then taken to where?

A. And then I don't know. Then I had my watch below until twelve o'clock.

Q. You were not on watch then when you came to anchor in Salmon Bay at four o'clock in the afternoon?

A. Yes, I had the watch then.

(Testimony of Fred Schank.)

Q. How many anchors were put out when you first came to anchor? A. One anchor.

Q. Which anchor was that?

A. The port anchor.

Q. Were you on watch when the compressor broke?

A. No, the mate came forward and I went aft.

Q. Did you have anything to do with the fixing of it afterwards?

A. Yes, I was there afterwards. I went away then when the thing was broken and we were near that three masted schooner there.

Q. Did you assist in putting the shackle on the anchor cable, after the compressor broke?

A. Yes, I helped when we put the tackle on.

Q. Can you tell what kind of a tackle was put on there? A. Yes.

Q. Just tell?

A. It was a two sheaved block with a strap around the both blocks, and a strong hook.

Q. What sized hook was it?

A. It was about two inches, I guess, thick.

Q. What became of that hook afterwards; anything happen to it?

A. No, nothing happened that time, it was in the night-time at ten o'clock.

Q. It broke afterwards? A. Yes, sir.

Q. Were you on deck when the "Rickmers" began drifting the second time? A. No, sir.

(Testimony of Fred Schank.)

Q. Well, after she was drifting were you called on deck?

A. Yes, as soon as the first collision was.

Q. As soon as the first collision? A. Yes, sir.

Q. With what schooner?

A. With a three-mast schooner.

Q. Did you notice that night how these schooners were at anchor; whether they had out one or more anchors?

A. No, I only saw when we were coming from Port Townsend that all these schooners were lying there with only one anchor out.

Q. Did you see the "Stimson"?

A. I saw the four-master schooner, but I don't know the name.

Q. Do you know whether she had out one or more anchors? A. I don't remember.

Q. But you remember about the other three?

A. Yes, and when that compressor broke and the chain ran out I was fore and we were nearly to the four-masted schooner, and they hoisted up their fore-stacer and put their helm to starboard, and she went off and so we got clear of her.

Q. Had you made any examination of the anchor cable just prior to this accident?

A. Yes, I was there when we put them out.

Q. What condition were they in?

A. They were in good condition.

(Testimony of Fred Schank.)

Q. How long before the accident was that?

A. About three or four days before we came into the Straits of Fuca.

Q. Did you examine the compressor at that time?

A. Yes, I was there when the donkey-man put the screws in.

Q. What way did you examine these things; do you take them apart, or how?

A. I looked at them to see that they were all right, and I couldn't find anything wrong with them.

Q. Do you know the size of that anchor chain?

A. Yes, it's two inches, I guess, or $2\frac{1}{4}$.

Q. Is that what they call a studded chain?

A. Yes, sir.

Q. How big are the studs through the links?

A. About the same size the chain is.

Q. You went to look for the lost anchor of the "Rickmers" afterwards, didn't you? A. Yes, sir.

Q. When was that—how long after the collision?

A. I can't tell; it was on a Monday; I guess it was about a fortnight after that.

Q. Was this schooner "Corona" up in the bay at that time yet?

A. I don't know which schooner it was that lost the jib-boom. It was the schooner we had the first collision with, and it was lying there yet.

Q. Lying in the same place?

A. Yes, lying in the same place.

(Testimony of Fred Schank.)

Q. I wish you would look at that map, Libellant's Exhibit No. 1, and indicate as near as you can the position of the "Rickmers" on the night of the accident, with reference to the "Stimson." You do not agree with the others. Indicate where you claim the positions were.

A. Here is a little corner here, and always some little puffs come around this corner, and made our ship go from one side to the other.

Q. Mr. Schenk, will you indicate with this pencil in blue, the place where you think the "Rickmers" was anchored when she had the two anchors?

A. It was here.

Q. The blue dot with the ring around it is the place where you think it was anchored?

A. Yes, sir.

(Counsel writes the name "Schenk at this point to indicate that this is the place where he locates the "Rickmers.")

Q. Mr. Schenk, what kind of wood is this compressor made of? A. It is green heart.

Q. What kind of wood is that, as to being strong or otherwise? A. That is very strong wood.

Q. Is that wooden block bound with iron in any way?

A. Yes, the top of that block.

Q. These things marked "A" are the iron jaws that hold the chain from slipping?

A. Yes, sir.

(Testimony of Fred Schank.)

Q. And the places "B" and "B" are iron bolts, on top of the wooden block? A. Yes, sir.

Q. After you began drifting what was done, if you know, to prevent your coming in collision with the "Stimson." {

A. We couldn't do nothing. When I came on deck we were nearly to the "Stimson." I guess we were nearly three ship lengths off from there.

Q. When you came on deck? A. Yes, sir.

Q. Were you at any time able to do anything to prevent it?

A. No, sir, we couldn't. And if we set any sails we would have been blown in pieces.

Q. How was the wind blowing at that time when you came on deck?

A. It was about force 11 by the Beaufort scale.

Q. Is that a high wind?

A. Yes, very high. Nearly the highest. Only one more—12.

Q. What is the usual custom with ships of this kind when they come to anchor? Is it customary to put out one or more anchors? {

(Objected to as immaterial.)

A. One anchor.

Q. What anchor did you put out?

A. The port anchor, for we had the hawser of the tugboat on the starboard side, so we put out the port anchor.

(Testimony of Fred Schank.)

Q. You were not on deck when the first anchor was put out at four o'clock?

A. Yes, I had the watch from twelve to four o'clock.

Q. You put out one anchor?

A. Yes, I was standing on the forecastle head.

Q. Did you notice whether or not everything was all right at that time? A. Yes, sir.

Q. Did you examine it and look at it, and look it over?

A. No, not at that time. Before I went up to the forecastle head I went down and looked at it, to see if everything was all right.

Q. Did you have any talk, or hear any talk, with the tugboat captain, when he left you there first that night?

A. Yes, I was there with the mate, together.

Q. When he first put you to anchor?

A. Yes, sir.

Q. What did the tugboat captain tell you, or did he tell you anything about it being a safe place to anchor?
(Objected to as leading.)

Q. Did the tugboat captain, when he first let go of you, say anything to you about its being a good place to anchor, and if so, what did he say?

(Objected to as leading.)

A. No, but he said the next morning, it was a good place to go to anchor.

Q. Did he say anything to you on the evening before?

(Testimony of Fred Schank.)

A. In the evening I didn't hear anything about that.

Q. What did he say the next morning?

A. He said that he passed us the night before about ten o'clock on the way down to Port Townsend, and he saw that our anchor lights were burning all right, and he knew it was a good position there, and so he went down, and in the morning, early in the morning, a passenger steamer was coming down and told him that one four-masted schooner was there at the west point, nearly on the beach, and so he came back with another steamer of the same company, the "Tyee."

Q. Did the captain of the tugboat say anything to you about what he had been doing during the night?

A. He was looking for some business during the night. He said he picked up a fisher boat there.

Q. Were you on watch when you left Port Townsend?

A. In the morning, no, I have the watch from twelve to four in the afternoon.

Q. What time did you leave Port Townsend?

A. In the morning at nine o'clock.

Q. Were you on watch then?

A. No, I wasn't on watch then.

Cross-examination.

(By Mr. HUGHES.)

Q. You say that this was your first trip, was it, into the Straits of Fuca and Puget Sound?

A. Yes, sir.

(Testimony of Fred Schank.)

Q. You sailed up until you got between Angelus and Dungeness? A. Yes, sir.

Q. And then came to anchor on the morning of the 24th? A. Yes, sir.

Q. Were you on watch at that time?

A. Yes, we were, both watches were on deck at that time when we went to anchor there, for we had to take all the sails away.

Q. What hour was it when you went to anchor?

A. I guess it was about nine o'clock.

Q. That was an hour after the watch had gone off duty, wasn't it? It was an hour after your watch had gone off duty?

A. No, it was my watch that morning.

Q. From eight to 12 was your watch?

A. Yes, sir.

Q. I thought you said you were on watch from eight to 12 at night?

A. My watch was from 8 to 12 again.

Q. There are three watches, are there?

A. Yes. When I watch in the morning from 8 to 12 I have a watch below, and I come on deck again from 4 to 6, and at 6 I go away again to 8, and at 8 I come on deck again until 12.

Q. How many watches did you have?

A. Two watches.

Q. Both watches were called out?

A. Yes, sir.

(Testimony of Fred Schank.)

Q. Was the wind blowing pretty hard, and is that the reason you called out both watches?

A. We always do that when we come to anchor; take both watches on deck.

Q. How long did it take you to take in your sails and come to anchor?

A. It wouldn't take long; about half an hour, I guess.

Q. How was the wind blowing?

A. About four to five by the Beaufort scale.

Q. Who put out the anchor?

A. The chief mate.

Q. Did you help?

A. I was lowering the sails down.

Q. You were lowering down the sails?

A. Yes, sir.

Q. How many sails were still up when the anchor was put out? A. The top sails.

Q. All your top sails were up?

A. No, we had two down. We had only one top sail up, and the braces were all pulled back, the yards were all pulled back.

Q. Which way was the wind blowing?

A. It was from the westerly.

Q. What direction was your ship moving? With the wind? A. I don't understand.

Q. What direction was your ship going at the time you put out your anchor? Going with the wind?

A. Yes, with the wind.

(Testimony of Fred Schank.)

Q. Now, you were on duty in the afternoon when you were coming down from Port Townsend, from 12 o'clock until 4? A. I don't understand.

Q. It was your watch from 12 o'clock to 4, when you were being towed from Port Townsend down to where you came to anchor?

A. In the afternoon, yes, sir.

Q. How was the weather and the wind during that watch?

A. It was a pretty strong breeze, and in the afternoon it was south southeast by the compass.

Q. A pretty heavy wind?

A. Yes, about six or seven.

Q. Did they have any difficulty in towing you?

A. At last we went very slow through the water.

Q. Towards the last it was pretty difficult for him to handle you? A. Yes, sir.

Q. And so he took you over near this lee shore?

A. Yes, over to the other side. We went on the right shore; the right-hand shore.

Q. He took you over and put you under this lee shore? A. Yes, sir.

Q. You were still on watch when he came to the anchor ground? A. Yes, sir.

Q. Were you still on watch when your port anchor was dropped?

A. No, it wasn't my watch, but I was on deck still.

Q. How long was it after your watch?

(Testimony of Fred Schank.)

A. It was just after four o'clock.

Q. Then it was immediately after your watch? Immediately after four o'clock?

A. Yes, sir.

Q. When you came to anchor then it was about four o'clock? A. Yes, about four o'clock.

Q. When your anchor chain ran out about forty feet, what happened? Was that the time when it split this compressor block? A. Yes, sir.

Q. When your chain had got out about forty feet?

A. Yes, and the compressor took the strain of the chain and then it split in two pieces.

Q. Then what was done there?

A. We called the tugboat back again, and told him about our misery and he gave us his hawser again.

Q. What did you tell him?

A. Said that our compressor was broken, and said that we wanted to be pulled up to our old place again.

Q. Did you tell him you were making it fast again?

A. Yes, sir.

Q. How much of the cable did you let out after the compressor broke?

A. I can't tell that for I wasn't there.

Q. Well, he gave you the rope and pulled up again?

A. Yes, sir.

Q. And held you until you put out your starboard anchor and secured your port chain?

A. Yes, sir.

(Testimony of Fred Schank.)

Q. Were you on duty that night from eight to twelve?

A. This same night, Christmas night?

Q. Yes. A. No, I had my watch below.

Q. From eight to twelve?

A. Yes, and I got up when the first collision was, about ten o'clock. I heard it.

Q. You heard the collision with the "Mildred"?

A. Yes, sir.

Q. But you had got away from the "Mildred" before you heard it?

A. Yes, when I got on deck we cleared of the "Mildred." She was right ahead of us.

Q. Were you drifting astern? A. Yes, sir.

Q. How much was she ahead of you at that time?

A. I guess about one ship's length.

Q. And how much were you ahead of the "Stimson"?

A. That, I can't tell.

Q. When you first came on deck?

A. I can't tell that proper.

Q. What is your best judgment about it?

A. I guess it was about five ship's lengths.

Q. You think it was that much when you got on deck; that you were that far from the "Stimson"?

A. Yes, sir, about four to five. I can't tell properly.

Q. Now, when you were answering Mr. Sachse awhile ago as to what you did, you said to him that you

(Testimony of Fred Schank.)

were only three ship's lengths away when you came on deck, and you didn't see what was done before, and you didn't have any time to do anything. Isn't that what you said a moment ago?

A. Yes, I said there was no time for anything.

Q. Which do you think is right—that you were three ship's lengths or five off from the "Stimson" when you got on deck?

A. It is very difficult to see in the night-time to see how much it is.

Q. Did you pay out any more chain?

A. When I was on deck, no.

Q. While you were drifting down towards the "Stimson"?

A. While I was on deck we didn't slack out any more chain.

Q. You didn't attempt to put out any sails at all?

A. No, sir, it wasn't possible.

Q. Have you got any other anchors on that ship?

A. Yes, we have one anchor in reserve.

Q. Has that got a chain fast to it?

A. No, she is standing back behind the foremast.

Q. Did you have any kedge anchor?

A. I don't know what you mean.

Q. Any smaller anchor?

A. Yes, we have got them.

Q. Are they in readiness so you can use them any time?

(Testimony of Fred Schank.)

A. Yes, they are above deck, on the fore part above deck.

Q. How did you strike the "Stimson"?

A. We struck her at our jib-boom.

Q. What part of your jib struck her?

A. The fore rigging.

Q. On your port side?

A. On our port side, yes, sir.

Q. You struck him on his starboard bow?

A. Yes, sir.

Q. Did your rigging catch fast into the "Stimson's" rigging? A. Our yards, did, yes, sir.

Q. Tore that away gradually, didn't it; tore away his fore rigging?

A. Yes, sir, and took off his fore top sails.

Q. What did you catch in then?

A. We caught his main mast with our jib-boom. His main rigging.

Q. Did you tear loose from there?

A. Yes, after awhile.

Q. How far had you been drifting before you tore loose from the rigging of his main mast?

A. I don't understand.

Q. Well, you drifted there together for quite a distance before your jib-boom tore away from the rigging of the main mast? A. Yes, sir.

Q. And then what did you catch fast to?

A. We caught the mizzen mast.

(Testimony of Fred Schank.)

Q. And you finally tore loose from that; after awhile you tore loose from the mizzen mast?

A. Yes, sir.

Q. And was then when you got loose from the ship?

A. Yes, we caught the spanker, too.

Q. You caught fast on the spanker mast, too?

A. Yes, sir.

Q. And finally you tore loose from that?

A. Yes, sir.

Q. And then you drifted away from the "Stimson"?

A. Yes, sir.

Q. Had the "Stimson" held; was she drifting when you finally separated from her, or had she come to anchor again?

A. When we were free her anchor stopped there.

Q. Did your anchor hold before you got free; just before you got free?

A. No, after we were free from her.

Q. After you were free from her her anchor held right away?

A. Yes, and we drifted further to the beach.

Q. About how much further did you drift? Half a mile?

A. About half a mile, yes, sir.

Q. And then your anchor held?

A. Yes, sir.

Q. And all this time you had been drifting along the shore?

A. Along the shore, yes, sir.

Q. Did you go a little further in shore than the "Stimson"?

(Testimony of Fred Schank.)

A. Yes, we were lying much closer to the shore than the "Stimson" was.

Q. When your anchor finally caught?

A. Yes, sir.

Q. How many fathoms of chain did you have out there that night when your anchor caught, after you got free from the "Stimson"?

A. One hundred and twenty fathoms; when we got free from the "Stimson" we put out again some more chain.

Q. Put out some more chain after you got free?

A. Yes, sir.

Q. How much more did you put out after you got free? A. About thirty fathoms.

Q. Put out thirty fathoms after you got free?

A. Yes, sir.

Q. And you had out altogether 120 fathoms?

A. Yes, sir.

Q. And then you rode there all right until morning?

A. Yes, sir.

Q. And during this time the wind was going down all the time? A. Yes, sir.

Q. All the time you were drifting along there together the wind was going down?

A. No, after that, when our anchor held in the ground, then the wind slacked up a little and in the morning when the steamer came it was nearly calm again.

(Testimony of Fred Schank.)

Q. It wasn't blowing quite so hard as it was when you first struck the "Stimson." It kept getting lighter after that, didn't it? A. No.

Q. What I mean is that the wind was going down a little before you came to anchor; along about the time that you parted from the "Stimson," and from there on the wind kept getting lighter?

A. It was about the same as it was before.

Q. And about the time you came to anchor, the wind was getting lighter then?

A. Sometimes it was squally.

Q. You mean you put out 30 fathoms of chain?

A. Yes, about that.

Q. I mean when you first put out your anchor you put out 40 fathoms? A. Yes, sir.

Q. I mean, and you mean, forty fathoms.

A. Yes, sir.

Redirect Examination.

(By Mr. SACHSE.)

Q. How was the wind blowing there when you were drifting towards the "Stimson," a steady blow?

A. No, sometimes it was very hard.

Q. Did you have a full crew on board at that time?

A. Yes, sir.

Recross-examination.

(By Mr. HUGHES.)

Q. How many were your crew?

A. Twenty-seven altogether.

CHARLEY BOEHNKE, being called as a witness, being duly sworn, testified as follows:

(Examination in Chief by Mr. SACHSE.)

Q. What is your business? A. Blacksmith.

Q. How old are you? A. Thirty-six.

Q. Where are you at work now and where were you at work in December last? A. I was on deck.

Q. What is your business? A. Blacksmith.

Q. Were you employed on the "Rickmers" in December last? A. Yes, sir.

Q. In what capacity? What were you doing?

A. I was on deck.

Q. What was your business on the ship? What do you do on the ship?

A. I help on deck sometimes, and sometimes in the donkey-house and doing the blacksmith work.

Q. You are the man they call the donkey-man on the ship? A. Yes, sir.

Q. How long have you followed that business?

A. This is the first sailing ship that I was on.

Q. What kind of ships were you on before?

A. Steamers.

Q. How long have you been on steamers?

A. About five years.

Q. Mr. Boehnke, state whether or not, before you arrived here at the Sound you made any examination of the compressor, and windlass and chains on this ship, the "Rickmers"?

(Testimony of Charley Boehnke.)

A. Yes, I do always. I take them off and put them away and look at them, and put them together again.

Q. Did you put them in position before you arrived here in the Sound? A. Yes, sir.

Q. How long before? A. A couple of days.

Q. Did you examine them while you were doing this work? A. Yes, sir.

Q. How did you find them; in what condition?

A. They were all right.

Q. How much did you take that machinery apart, connected with the compressor and windlass, and all that; what did you do with it? Did you take it all apart?

A. Not all. The stoppers and the screws.

Q. You took them apart and looked at them?

A. Yes, sir.

Q. They were all right?

A. Yes, sir.

Q. Did you have anything to do with the anchoring of the ship up here in Salmon Bay?

A. No, sir, I didn't have anything to do with that.

Q. Did you have anything to do with the shackling on the chain?

A. No, sir, only the small chain, when they break one we heave the anchor by two small chains.

Q. This chain on the "Rickmers." Do you know, or can you say from your experience as a sea-going man,

(Testimony of Charley Boehnke.)

whether that chain was the usual and ordinary sized chain used on ships of that kind?

A. Yes, it was a strong chain.

Q. How big was this chain?

A. It must have been two inches; it wasn't much over that.

Q. And it is what is called a studded chain, is it?

A. Yes, sir.

Cross-examination.

(By Mr. HUGHES.)

Q. You don't understand English very well?

A. Not good.

Q. You couldn't understand all that this gentleman said to you?

A. Yes, I understand that.

Q. Could you understand all that?

A. Yes, sir.

Q. Did you ever measure these chains?

A. No, never measured the size of the links, but I could see it was two inches through it. I never measured them.

Q. When was it that you put the anchor chain back on the windlass?

A. A couple of days before we got into the bay.

Q. Who put it on?

A. I put the windlass on and the screws.

Q. You put on the windlass and who put the chain on?

A. The mate and the sailors.

Q. You didn't look at it again after that time, did you?

(Testimony of Paul Hesse.)

A. No, sir.

Q. That was a couple of days before you got to Cape Flattery?

A. Yes, sir.

PAUL HESSE, being called as a witness being first duly sworn, testified as follows:

(Examination in Chief by Mr. SACHSE.)

Q. How old are you, Paul? A. Twenty years.

Q. How long have you been at sea?

A. Five years.

Q. Do you work on the "Rickmers"?

A. Yes, sir.

Q. What business? A. Able seaman.

Q. Paul, did you help put on this shackle on the anchor chain at the time just before coming into collision there?

A. Yes, sir.

Q. Did you help put the chain on the windlass before you arrived at the Sound? A. No, sir.

Q. You didn't help in that? A. No, sir.

Q. What kind of a shackle did you put onto that chain?

A. A two sheave block.

Q. How was it made fast?

A. Four inches and a half rope and the chain strapped on the mast.

HENRY BRAUE, being recalled for further cross-examination, testified as follows:

Cross-examination.

(By Mr. HUGHES.)

Q. Have you secured another anchor in place of the port anchor? A. Yes, sir.

Q. Did you get a new chain?

A. No we got forty-five fathoms chain besides our other 135 fathom in between decks.

Q. You say you got a new anchor?

A. Got a new anchor, yes, sir.

Q. How heavy an anchor is it?

A. That's a pound more than the old one.

Q. How much is it?

A. Three thousand six hundred and one.

Q. What chain have you put on it; the same you had on the other one?

A. On the bow now we have got an anchor. These ships always have the third anchor on board, and we have got that on the bow now, on the port bow.

Q. In place of the one that is lost?

A. In place of the 3,600 pound anchor.

Q. The one that is lost? A. Yes, sir.

Q. And what chain have you got on that anchor?

A. The same chain on the port side, only we took five fathoms off and shackled that end.

Q. You shackled in five fathoms from a new chain? What I want to get at is what chain are you using with

(Testimony of Henry Braue.)

this port anchor that you have now put on the ship, what chain are you using?

A. The same chain we had been using before on the port side.

Q. Well, you lost about ten fathoms you say of that chain? A. Yes, sir.

Q. Now, is your port chain only 125 fathoms long?

A. One hundred and twenty fathoms now. We took the five fathoms off.

Q. You took five fathoms more off from the chain?

A. From the port chain, yes, sir, and each length is fifteen fathoms. We have to take five fathoms off to get to the big link.

Q. Upon your port chain now is only 120 fathoms?

A. Yes, sir.

Q. It used to be 135 fathoms?

A. Yes, sir.

Q. And you have the same one that you did have?

A. We have the forty-five fathoms chain besides that.

Q. Where is that forty-five fathom chain?

A. Between decks.

Q. You have put in new chain?

A. No, sir.

Q. You bought a new anchor and have that stored between decks?

A. No, the new anchor is on deck.

(Testimony of Henry Braue.)

Q. But you haven't put it in use? You are not using it?
A. No, sir.

Q. Just stored it? A. Yes, sir.

Redirect Examination.

(By Mr. SACHSE.)

Q. You have put an anchor in place of the anchor lost?

A. Yes, sir.

Q. But this new anchor is a spare anchor?

A. Yes, it is the same as the one we lost. But this one we have now on the boat is bigger.

Q. How much bigger is it than the one you lost?

A. Four hundred pounds.

Recross-examination.

(By Mr. HUGHES.)

Q. The new port anchor is forty hundred weight?

A. No, it is one pound different than the one we lost.

Q. You bought one new anchor, haven't you?

A. Yes, sir.

Q. That new anchor that you bought is the same weight as the one you lost, with the exception of being one pound heavier? A. Yes, sir.

Q. But you had an anchor that you carried on your ship before that was not in use, and that anchor is the one that you put on your port chain?

A. Yes, sir.

Q. Instead of the new one that you bought?

A. Yes, sir.

(Testimony of Theo. Kevister.)

Q. Now, the anchor that you put on your port chain, and now have on your port chain, weighs how much?

A. Four thousand pounds, or forty hundred weight.

Witness excused.

THEO. KEVISTER, being called as a witness, being first duly sworn, testified as follows:

(Examination in Chief by Mr. SACHSE.)

Q. How old are you? A. Twenty-three.

Q. What do you do? A. On board the ship.

Q. What ship? A. The "Rickmers."

Q. Were you on board ship on December last?

A. Yes, sir.

Q. What is your business on ship?

A. Able seaman.

Q. Were you one of the men who helped put the shackle on this port cable just before you had the accident up there at Salmon Bay? A. Yes, sir.

Q. What kind of shackle was put on there; can you tell us?

A. I don't remember very well what kind it was.

Q. How was the wind blowing that night after you began drifting; do you know?

A. It was blowing pretty hard.

Q. How long have you been at sea?

A. About four years.

Q. How long have you been with this ship?

A. Eleven months, and about ten days.

(Testimony of Theo. Kevister.)

Cross-examination.

(By Mr. HUGHES.)

Q. Were you on deck between eight and twelve o'clock that night, while this ship was drifting?

A. Yes, sir.

Q. Was your watch on deck? A. Yes, sir.

Q. Which way was the wind blowing? From the land?

A. She blew from the lighthouse.

Q. From that direction? A. Yes, sir.

Q. You broke your port chain and lost that anchor, didn't you? A. Yes, sir.

Q. Did you commence drifting right after that? Did your ship commence to drift right after you broke your port chain and lost your port anchor?

A. It drifted right the same way.

Q. Commenced drifting at the same time that you lost that anchor?

A. Well, I can't say what time we lost that anchor.

Q. Did you notice that the chain was hanging loose?

A. I was there at the forecastle head once and I looked at it and couldn't tell whether it was there or not.

Q. Did it look to you as if the chain was hanging down loose? A. Yes, sir.

Q. That was when, just before you commenced drifting?

(Testimony of Theo. Kevister.)

A. Yes. We were alongside of this four-mast schooner when I looked at this chain.

Q. Was that before you struck the schooner?

A. After that.

Q. You first ran against the bow of the schooner, did you? A. Yes, sir.

Q. How long did it take you to drift down onto the "Stimson"?

A. Well, I can't tell; about an hour.

Q. About an hour, you think?

A. Yes, I think, but I am not certain.

Q. How was the wind? What way was the wind blowing then?

A. It was harder this time when we were close to the four-mast schooner.

Q. Did it blow harder from that time on until you got to the "Stimson"?

A. Yes, there were squalls.

Q. When did the storm commence to get lighter?

A. It got lighter when we were closer to land and the anchor caught.

BUSTAV VON FRIEBEN, being called as a witness, being first duly sworn, testified as follows:

(Examination in Chief by Mr. SACHSE.)

Q. How old are you?

A. Twenty years and a half.

Q. How long have you been to sea?

(Testimony of Bustav Von Friebeu.)

A. Five years.

Q. Are you an able seaman on the "Rickmers"?

A. Yes, sir.

Q. Were you on December last? A. Yes, sir.

Q. Were you one of the men who helped put the shackle on the port cable chain? A. Yes, sir.

Q. What kind of shackle did you put on that?

A. We put a manila strap around the chain, and a chain strap around the mast.

Q. How was the wind blowing?

A. At first not so hard, but afterwhile we got a little more wind.

Q. Can you tell us whether it was blowing strong or otherwise?

A. Yes, I think it was blowing very strong.

Cross-examination.

(By Mr. HUGHES.)

Q. When did you shackle this chain?

A. What time?

Q. Yes.

A. I think it was ten o'clock.

Q. Was that before or after you lost your port anchor? A. It was before, I think.

Q. About how long was that before you lost the port anchor?

A. I don't know what time we lost the port anchor; we didn't know until the next morning when we went to heave the anchor up, and we saw it then.

(Testimony of Bustav Von Friebeu.)

Q. How long was it after you shackled this on before your ship commenced to drift?

A. It was fifteen or twenty minutes before; ten or fifteen minutes I think before.

Q. Did you take any of the port chain after you shackled it fast? A. Did I take any of it in?

Q. Yes. A. No.

Q. How much was out at that time?

A. It was a little over forty-five. We put first forty-five on the port chain, and afterwards five fathoms I think went out.

Q. You think five fathoms went out before you shackled it?

A. Yes, a little short of forty-five before that.

Q. When was the compressor split you think, that put five fathoms slack out? The windlass slacked out about five fathoms more?

A. Yes, I think after the tackle broke about five fathoms went out.

Q. That is after this tackle that you are describing. After you put that on that broke? A. Yes, sir.

Q. And that broke how long after you commenced drifting? A. Ten or fifteen minutes.

Q. And as soon as it broke about five fathoms more of the chain slacked out?

A. Not more before we got the tackle on.

Q. Before you got your tackle fast?

A. We got one tackle on there and the hook broke from the tackle and five fathoms went out.

(Testimony of Bustav Von Friebeu.)

Q. And you put on a second tackle?

A. Yes, sir.

Q. And that held all right? A. Yes, sir.

Q. The windlass held the chain all right except that it let out about five fathoms more of the chain?

A. Yes, sir.

Q. There never was any more than that extra five fathoms go out on account of the splitting of your compressor, was there?

A. I don't understand that.

Q. What I mean is you had out forty fathoms of chain on your port anchor? A. Yes, sir.

Q. Then the wooden block of the compressor split?

A. Yes, sir.

Q. And then you put on a tackle and made it fast to your fore mast? A. Yes, sir.

Q. And then the hook of that broke?

A. Yes, sir.

Q. And before you succeeded in getting on another tackle and making it fast about five fathoms of chain slacked out from the windlass? A. Yes, sir.

Q. And then you had out about forty-five fathoms of chain? A. Yes, sir.

Q. And that's all the chain you had out on the port anchor? A. Yes, at this time.

Q. That is what I mean, while you were at anchor there that evening? A. Yes, sir.

(Testimony of Bustav Von Frieбен.)

Redirect Examination.

(By Mr. SACHSE.)

Q. Did you have on any more chain afterwards?

A. Yes, afterwards.

Recross-examination.

(By Mr. HUGHES.)

Q. You slacked out after that on your starboard chain but not on your port chain? A. Yes, sir.

Redirect Examination.

(By Mr. SACHSE.)

Q. Did you slack out on the port chain then?

A. I don't know. It wasn't my lookout there. The captain was there, but I know we slacked more chain on the starboard side. Two times we slacked on the starboard side.

Recross-examination.

(By Mr. HUGHES.)

Q. Were you on deck while your boat was drifting down onto the "Stimson"?

A. I don't know the names of the schooners there.

Q. The one you got fast to; the one that you struck and drifted with? A. Yes, sir.

Q. Were you on deck while you were drifting down onto that one? A. Yes, sir.

Q. It was your watch, was it? A. Yes, sir.

Q. When you were getting down near to that schooner, the "Stimson"?

A. It was the first schooner, I think.

(Testimony of Bustav Von Friebeu.)

Q. The second one, when you were getting down to the one that you last collided with, what, if anything, was said on your ship about that?

A. Nothing.

Q. Your captain or mate didn't sing out anything to the men on board of the schooner?

A. Yes, told them to slack more chain and the fellow said they had no more slack.

Q. What else was said, anything?

A. I don't know. I didn't hear anything else.

Q. You didn't hear anything else? And you didn't pay any attention?

A. (No response.)

Q. Do you remember anything else that they said to your captain or to your mate?

A. No, sir.

Redirect Examination.

(By Mr. SACHSE.)

Q. Did you see the captain of the tugboat at Port Townsend? A. Yes, sir.

Q. Was it the same captain of the tugboat who was around there the next morning?

A. Yes, sir.

Q. Of the Tacoma? A. Yes, sir.

Q. The same man? A. Yes, sir.

Witness excused.

It is stipulated between counsel that the certificates for the anchor chains are made on the same date as the anchor certificates introduced in evidence herein, to wit, November 30th, 1887, made by the same superintendent, and that they recite that said chains are each stud link chains, having a total length of one hundred and thirty-five fathoms; weight of two hundred sixty-three hundredweight; length of link, twelve and three-quarter inches; breadth of link, seven and three-sixteenths inches; size or diameter of link, two and one-sixteenth inches; breaking strain applied by Machine No. 4, give it of each length of fifteen fathoms one hundred seven and one-tenth tons; tensile strain applied by Machine No. 5, seventy-six and five-tenths tons.

The certificate as to each anchor chain is the same, and recites that it is intended for the ship "Robert Rickmers."

Claimant's Exhibit No. 2.

No. ———.

(J. A. M.)

BUREAU VERITAS.

(Societe Anonyme)

International Register for Classification of Vessels.

Established 1828.

Certificate of

Classification.

Veritas.

Iron or Steel Vessels—Special Survey.

This is to certify that the German four mast ship "Robert Rickmers," Rubarth, Master, Rickmers, Reismuhlen

Rheiderei Schiffbau A. G. Greenock by Russels & Co. in the year 1888, belonging to the port of Bremerhaven, has been surveyed and examined by the undersigned Surveyor to the Society and found to be in good and efficient state, and fit to carry dry and perishable cargoes.

The said vessel built under Special Survey will be entered in the Register-book with the class 3/3 L. I. I. in the first Division.

This certificate is granted under the conditions of the articles 5 and 6 of the Rules of which the following is an extract:

Article 5. To retain their character, vessels classed in the first division must be subjected to a complete survey at least once every four years.

Article 6. 2. All iron or steel vessels must have their bottom examined at least once every year; 8. In case of damage or stranding, the vessel must be surveyed.

When these requirements are not attended to the class is liable to be withdrawn.

Delivered by authority of the Administration.

Le Havre, the 26th April, 1898.

L' Ingenteur du Veritas au Havre,

J. HALATHIEN.

(Marginal notes.) The annual bottom surveys prescribed by Sec. 2 of Article 6 shall be entered on the present certificate which is to be exchanged for a new one at the time of the periodical survey (Articles 5 and 6 of the Rules).

Bureau Veritas International Register.

Bureau Veritas.

Experts Du Havre.

Paris, 1828.

Registre International.

No. 1.

Certified for survey in drydock. Bottom and rudder in good condition. Division and class confirmed. At Bremerton, the 13 October, 1899.

[Seal]

A. YOTTSCHÉ.

No. 2.

Certified for survey in drydock. Bottom scraped and painted and rudder lifted. Continuation of class confirmed at Hall, the 12th February, 1901.

[Seal]

H. F. FOURNEY.

No. 3.

Certified for survey. Afloat after repairs to rigging and sails; slight repairs to bulwarks; class confirmed at Tacoma, the 20 Jan., 1902.

[Seal]

E. BIONDI.

[Title of Court and Cause.]

Depositions.

Be it remembered that, pursuant to the stipulation herein contained, before me, N. W. Bolster, a notary public in and for the State of Washington, duly commissioned to administer oaths, etc., at my office, room 200 Burke Building, Seattle, King County, Washington, on this 26th day of April, A. D. 1902, at the hour of ten A.

(Deposition of William Kindlen.)

M., the libelant appeared by its attorneys, Messrs. Struve, Allen, Hughes & McMicken, the respondent ship appeared by its attorneys, Messrs. James H. Ashton and W. L. Sachse, and it is agreed by and between the parties hereto that the testimony of witnesses produced by the libelant may be taken before N. W. Bolster at this time without other notice or stipulation, and when transcribed the same may be returned to the Court as the depositions of the several witnesses, to be used upon the hearing and trial of said cause, and it is further agreed that the signatures of the witnesses are hereby expressly waived:

WILLIAM KINDLEN, produced as a witness in behalf of libelant, being first duly cautioned and sworn, testified as follows:

Q. (Mr. HUGHES.) State your name.

A. William Kindlen.

Q. You are a master mariner, are you?

A. Yes, sir.

Q. How long have you been a master mariner?

A. Thirty years.

Q. You are the master of the schooner "Mildred"?

A. I am the master of the schooner "Mildred."

Q. How long have you been the master of the "Mildred"?

A. Since she was launched four and a half years ago.

Q. How long have you been master of a sailing vessel?

A. Master of a sailing vessel thirty years, since 1872.

Q. Where was your ship at anchor on December 25th, 1901?

A. Salmon Bay.

(Deposition of William Kindlen.)

Q. You mean off the mouth of Salmon Bay, what is called Shilshoal or Salmon Bay?

A. Well, I never knew that until I saw it on the chart; I thought Salmon Bay was outside; it seems to me here it is inside; I always called that Salmon Bay.

Q. Were you on board the "Mildred" on the evening and night of December 25th, 1901? A. No, sir.

Q. Where were you?

A. I was ashore in Ballard.

Q. You were about ready to go to sea?

A. No, sir, we did not go to sea until the 8th of January.

Q. You did not see the "Robert Rickmore" at anchor there? A. No, sir.

Q. She did not come into anchor until after you had gone ashore? A. No, sir.

Q. And she was gone when you returned on the morning of the 26th? A. Yes, sir.

Q. What other ships were anchored near the "Mildred"?

A. The schooner "Corona" and the schooner "Stimson."

Q. I will ask you to designate on this map "Respondent's Exhibit No. 1," the position of the "Mildred," the "Corona" and the "Stimson," and I will ask you to state whether the locations marked on exhibit No. 1 as follows: "M, C, and S," represent the positions of the schooners "Mildred," "Corona" and "Stimson," at anchor there on the 25th day of December.

(Deposition of William Kindlen.)

A. The positions as near as you can possibly get them.

Q. The letter "M" represents the location of the "Mildred"? A. Yes, sir.

Q. And the letter "C" represents the location of the "Corona"? A. Yes, sir.

Q. And the letter "S" represents the location of the "Stimson"? A. Yes, sir; that's right.

Q. You do not know what was the position of the "Robert Rickmore"? A. No, sir.

Q. And you do not know anything about the collision that occurred on the night of December 26th except from hearsay?

A. That is all; just what I heard from the mate.

Q. When you got on board the "Mildred" did you find any damage had been done to her?

A. Yes, sir.

Q. What was it?

A. The jib-boom was carried away and all our lashing planks taken away and the rigging damaged to a certain extent.

Q. Do you know what did that?

Mr. SACHE.—We object to that as irrelevant, immaterial and incompetent.

A. The "Robert Rickmore."

Q. I will ask you whether the "Robert Rickmore" settled with you for it?

Mr. SACHSE.—We object as irrelevant, immaterial and incompetent.

(Deposition of William Kindlen.)

A. She settled.

Q. (Mr. HUGHES.) Who was on duty on the "Mildred" on the evening and night of December 25th when you were ashore?

A. John Knudson, the mate.

Q. And where is he now?

A. He left in San Francisco on the 6th of April; I gave him a permit to go to the hospital, he was sick; that is all I know of him—I have not seen him since.

Cross-examination.

Q. (Mr. SACHSE.) What time of day did you leave the schooner on the 25th of December?

A. I left on the evening before.

Q. Do you know of your own knowledge of your schooner and the other schooners being anchored in those positions on the 25th?

A. Yes, I left them all just in that position here on the evening before—on the 25th—on the evening of the 24th.

Q. And how were they anchored, with one or two anchors?

A. My vessel was anchored on one anchor with 65 fathoms of chain.

Q. And the others?

A. I don't know how they were anchored, only the position—I know the position is correct as near as you can do it now—how much chain they had out I do not know. Before I left I gave her all the chain we had in

(Deposition of William Kindlen.)

the chain locker so that there would be no trouble about it afterwards.

Q. You do not know then whether or not your schooner also drifted during the night?

A. No, sir, the schooner never drifted; she was in the same position that I left her in.

Q. When you got back?

A. When I got back.

(Testimony of witness closed.)

JOHN EDWARDS, produced as a witness in behalf of libelant, being first duly cautioned and sworn, testified as follows:

Q. (Mr. HUGHES.) State your name.

A. John Edwards.

Q. What is your business?

A. I am a sailor.

Q. And able seaman? A. An able seaman.

Q. How long have you been an able seaman?

A. I have been about nine years going to sea.

Q. Where were you working on that vessel on the 25th of last December?

A. On the schooner "Mildred."

Q. Where was the schooner "Mildred" at that time?

A. She was lying to anchor at what we call Salmon Bay, out in the stream opposite Ballard.

Q. What vessels were anchored near you?

A. The nearest?

Q. Near you on the 25th?

(Deposition of John Edwards.)

A. Well, the schooner "Stimson" and the "Corona."

Q. Which way was the "Corona" from you?

A. She was on our port side.

Q. And which way was the "Stimson" from you?

A. She was lying stern like in a straight line.

Q. Now, were you there when the "Robert Rickmers" came in? A. Yes, I was.

Q. Along some time between four and five o'clock in the afternoon?

A. Something like that, I think.

Q. Was that on the 25th of December?

A. Christmas Day.

Q. Where did she come to anchor?

A. She anchored pretty near between us and the "Corona," after she had the chain slacked out a little she pretty near drifted on the top of the "Corona," and then she swung clear a little.

Q. And then after she drifted towards the "Corona," did the tug take her up and carry her forward again and anchor again?

A. She was right ahead of us, a little bit on the port bow.

Q. That is the second time she anchored?

A. Yes, sir.

Q. And that was when she finally came to anchor then that she was ahead of you and on the port bow?

A. Yes, sir; she was ahead of us—both of us pretty near east of the "Corona," because we were lying pretty near in the same condition.

(Deposition of John Edwards.)

Q. You mean that she was inshore from you, was she, the "Robert Rickmers" was inshore from you towards the shore? A. Well, she was ahead of us like.

Q. Well, that would make her nearer the shore, wouldn't it?

A. Well, yes, it would if she was ahead of us.

Q. Now, were you called on deck that night?

A. Yes, I was called on deck; I think it was between nine and ten, I can't say for sure, but something like that.

Q. What happened then?

A. Well, she drifted on the top of us.

Q. The schooner "Mildred."

Q. What drifted on top of you?

A. That ship.

Q. The "Robert Rickmers"? A. Yes, sir.

Q. Did anything happen to your ship?

A. Well, she took a jib-boom out of us—out of the schooner "Mildred."

Q. What did she do?

A. She damaged some rigging.

Q. What happened then?

A. And then she went clear of us and drifted on the port side of us, and the last I saw of her she was alongside of the "Stimson," and both of them drifted away and they disappeared, I could not see them any more—that is the last I saw of them.

Q. What kind of weather was it then?

A. It was blowing very hard.

(Deposition of John Edwards.)

Q. Was the wind off shore?

A. The wind was off shore; yes, sir.

Cross-examination.

Q. (Mr. SACHSE.) You have been a sailor in deep water vessels during your time?

A. During the time—

Q. During your nine years' experience?

A. Yes, sir; two years.

Q. How often have you been in this Sound during that time?

A. During the time I was a sailor in deep sea?

Q. Yes.

A. I was not here at all then—I have been on this coast for seven years, sailing on this coast.

Q. Is this the first time you have ever anchored in Salmon Bay?

A. No, sir, I have been there about six or seven times loading.

Q. What time was it when the "Robert Rickmers" first began drifting and came near the "Corona," do you remember?

A. Well, it was about between four and five.

Q. Was that shortly after the "Robert Rickmers" was first anchored? A. Yes, it was.

Q. Did you say the wind was blowing?

A. The wind was blowing very strong—I am not sure which wind it was—I guess it was southward.

Q. A southerly wind—blowing a gale, wasn't it?

(Deposition of John Edwards.)

A. Well, it was blowing very hard.

Q. Did the "Robert Rickmers" people say anything to you when they came near you?

A. Well, they sung out to us to slack our chain, but we had no chain to slack out—we had all our chain out.

Q. Didn't they sing out to you to port your helm too?

A. Well, sir, I did not hear that, I am not sure.

Redirect Examination.

Q. (Mr. HUGHES.) Did your boat drift any?

A. No, sir, not that I know of.

Q. You had only one anchor out?

A. We had only one anchor out.

Q. (Mr. SACHSE.) How big a schooner is the "Mildred?"

A. Well, sir, she is four hundred eleven tons.

Q. What size anchor did you have out, what weight anchor?

A. I am not sure what weight anchor it is.

Q. You had out how many fathoms of chain?

A. Between sixty and and seventy, I think.

(Testimony of witness closed.)

May 19, 1902.

Continuation of proceedings pursuant to adjournment.

Present: MAURICE McMICKEN, Esq., of Proctors for
Libelant.

HAYDEN, Esq., of Proctors for Claimant.

Captain JOHN A. ANDERSON, produced as a witness in behalf of libelant, being first duly cautioned and sworn, testified as follows :

Q. (Mr. McMICKEN.) How old are you, Captain?

A. I am thirty-eight.

Q. What is your business, Captain?

A. I am a seafaring man.

Q. How long have you been going to sea?

A. I have been going to sea twenty years.

Q. What vessel are you now in command of?

A. The schooner "Corona."

Q. Where does she said from?

A. San Francisco.

Q. How long have you been master of her?

A. About four years and a half.

Q. Captain, where was the schooner "Corona" on the afternoon and night of last Christmas?

A. In Ballard, Salmon Bay, rather.

Q. Anchored off Salmon Bay? A. Yes.

Q. How long had she been there?

A. I had been there three days, two or three days, I really cannot remember without I get the log-book; about three days, I should judge.

Q. Were you loaded or light? A. I was light.

Q. Do you remember the "Robert Rickmers," or a four-masted bark being towed in and anchored in there that afternoon? A. Yes.

Q. About what time was it she anchored there first?

A. I should judge about two or half-past two in the afternoon.

(Deposition of Captain John A. Anderson.)

Q. How was the wind at that time, Captain?

A. It was about south or south southwest, varying two or three points.

Q. South or south southwest?

A. South or south southwest, varying two or three points.

Q. And you, of course, were headed into the wind?

A. I was headed to the wind.

Q. How many anchors had you down at that time?

A. I had only one anchor and 45 fathoms of chain.

Q. Now, from your vessel, where did the "Robert Rickmers" anchor the first time?

A. She anchored—

Q. I do not mean by courses and distances, but off which bow?

A. She anchored ahead of me a little on the star-board bow, if anything, I should judge about an eighth of a mile ahead of me, or something like that.

Q. And you were anchored off Shilshoal Bluffs?

A. Yes.

Q. And about what distance between West Point and the mouth of Salmon Bay?

A. Well, I should judge I was about three-quarters of a mile or a mile off the lighthouse, that brings me about a quarter of a mile off shore from where I was lying.

Q. And how far from the mouth of Salmon Bay?

A. About half a mile.

Q. Where was the schooner "Mildred" anchored as compared with your vessel?

(Deposition of Captain John A. Anderson.)

A. Well, she was anchored abreast of me, beyond the outside.

Q. On your starboard side?

A. Yes, on my starboard side.

Q. And where was the schooner "Stimson" anchored?

A. She was anchored astern of me about a quarter of a mile, a little on the starboard quarter, if any.

Q. What happened when the "Robert Rickmers" was first anchored?

A. Well, she commenced to drag and was just getting on the top of me. I should judge she was about three- or four feet off when I got a staysail on—I had it up by that time and my foresail started to pay off, and he got on the outside of me.

Q. You sheered your vessel off shore?

A. I sheered my vessel off shore.

Q. With your forestaysail?

A. With my forestaysail. I backed up to the wind and the little wind there was throwed me over, and then I dropped the other anchor.

Q. Then you dropped your port anchor?

A. I dropped my port anchor and she stood there.

Q. And then what was done with the "Robert Rickmers"?

A. Well, he seemed to hang on for awhile and then the tow boat came and got his hawser in, and when he had his hawser in he gave the hawser to the "Robert Rickmers" and drew her up again a little more ahead of the

(Deposition of Captain John A. Anderson.)

“Mildred,” about one-eighth of a mile, or something like that, I should judge.

Q. And could you see then how they anchored the “Robert Rickmers” at that time?

A. I could see there was a little spread on them.

Q. She put down both anchors?

A. She had both anchors out.

Q. What happened between that time and nine or ten o’clock at night when the “Robert Rickmers” dragged the second time?

A. Well, it was blowing, coming in puffs, strong puffs and then a little blow.

Q. Did the “Mildred” and the “Corona” and the “Stimson” all hold their positions?

A. Held, all held—everybody was holding, nobody moving.

Q. What time did the “Robert Rickmers” commence to drag the second time?

A. So far as I could judge it was about eleven o’clock or somewhere along there.

Q. Did you see her when she commenced to drag?

A. No, sir, I didn’t see her when she commenced dragging, but the mate of the “Mildred” sung out to me “‘Corona,’ you are dragging.”

Q. The “Robert Rickmers” I am getting at—what time did you know that the “Robert Rickmers” commence to drag the second time?

A. Well, it was about eleven o’clock when she was abreast of me—he must have dragged about the eighth

(Deposition of Captain John A. Anderson.)

of a mile or something like that when I noticed him and then—

Q. She cleared you when she dragged the second time?

A. She cleared me the second time—that was the time she took the job off the “Mildred.”

Q. Then could you see her drag after that, down on the “Stimson”?

A. Yes, I watched until about two o'clock that night—I didn't go to bed then.

Q. Could you see the collision between the “Robert Rickmers” and the “Stimson”?

A. Yes, sir; I could see her all the time; I could not see when the jib-boom came down, but I could hear the crash; it looked like to me—I was watching her with my glasses—it looked the same as she was going to clear, and then backed off a little and then she ran ahead and then she fumbled and I heard the crash afterwards.

Cross-examination.

Q. (Mr. HAYDEN.) The second time, Captain, after the “Robert Rickmers” commenced to drag, you say about eleven o'clock, did she come between the “Mildred” and the “Corona,” and on what side of the “Mildred” and on what side of the “Corona”?

A. Yes, she went on the starboard side of the “Corona” and on the port side of the “Mildred.”

Q. What time did the “Robert Rickmers” drop her two anchors?

A. About three or half-past three, or something like

(Deposition of Captain John A. Anderson.)

that. It took them about an hour and a half to get them up, as near as I can remember.

Q. That was after she dragged the first time?

A. Yes.

Q. Then she dropped both of her anchors?

A. Then she dropped both of her anchors.

Q. Do you know the size of her anchors?

A. No.

Q. How far was the "Mildred" from the "Stimson"?

A. Well, about a quarter of a mile, perhaps less.

Q. You say the wind blew hard on that night?

A. Yes, blowing hard.

Q. How hard was it blowing?

A. Well, it was a gale.

Q. Was it cloudy? A. Partly cloudy.

Q. Was it raining? A. At times.

Q. Was it raining when the "Robert Rickmers" dragged past you?

A. I think it was—I had my oiled clothes and my rubber boots on when she came down so it was raining at times.

Q. You said you were lying down when the "Robert Rickmers" passed you the second time?

A. Yes, I was lying out in the cabin, but I was not sound asleep. As I could hear the mate sing out on the "Mildred," he sang out that I was dragging.

Q. That the "Corona" was dragging?

A. That the "Corona" was dragging, yes; and when

(Deposition of Captain John A. Anderson.)

I got up then the "Robert Rickmers" was right in between us.

Q. Did you look to see if the "Corona" was dragging or not?

A. Yes, the first thing I went forward and payed out chain and when I had all the chain out on the anchors she hung on.

Q. How long did it take you to pay out your chain?

A. Well, I should judge it took about ten or fifteen minutes.

Q. To make it all fast, you payed it all out and made all fast inside of fifteen minutes?

A. Yes, ten fathoms of each chain.

Q. Did you have two anchors down?

A. I had two anchors down, sixty on one and about twenty on the other.

Q. Fathoms?

A. Yes, and I payed out the other forty and then she hung on.

Q. You had sixty out on the other chain?

A. I had sixty out on both chains, and then she hung on.

Q. What is the tonnage of the "Corona"?

A. Three hundred and ninety-four tons.

Q. Is she a bark, or a ship, schooner?

A. She is a schooner; three-topmast schooner.

Q. And what sort of rig was the "Corona"?

A. She is a three-topmast schooner.

(Deposition of Captain John A. Anderson.)

Q. I mean the "Robert Rickmers"?

A. She is what I call a four-masted bark.

Q. Was the "Robert Rickmers" light or heavy loaded? A. She was in ballast.

Q. She was light? A. Yes.

Q. How long did it take the "Robert Rickmers" after she was abreast of you to drag back to the "Stimson"?

A. It took her about, I should judge, a half hour, or something like that.

Q. With a southerly wind, the wind gets a clean sweep for how many miles down the Sound?

A. Well, it gets a clean sweep from where we were down to Richmond Beach.

Q. I mean up this way towards Blakely Rock and Blakely harbor?

A. It gets a clean sweep, I should judge, from here to that point (showing on the chart), Restoration Point, at the southern end of Blakely.

Q. How many miles is that?

A. I should judge about four or five miles, I guess, about four miles and a half.

Q. Now, the wind blowing from the south would blow away up here and straight down without any interruption, it would blow from here; how far in on the Sound would the wind have a clean sweep blowing in a southerly direction to where your ships were?

A. Right around to Richmond Beach.

Q. Do you know how far that would be?

(Deposition of Captain John A. Anderson.)

A. Well, it is about, I should judge, about three miles or something like that, three or four miles.

Q. The wind would have at least seven or ten miles sweep, a straight blow from the southerly, without hitting anything at all until it hit the ships, without anything to interfere with it? A. Yes.

Q. Could you see the anchor chains of the "Robert Rickmers" as she was going by the "Corona"?

A. No, I don't think I could see the chains.

Q. Could you make out men standing on the deck?

A. No.

Q. It was not foggy on that night?

A. No, it was partly cloudy.

Q. And it was raining?

A. Raining at times, yes, heavy showers and it was blowing in puffs, strong puffs; sometimes it was not blowing strong and after a while then it would come one of these strong puffs.

Q. And it was during one of those strong puffs that the "Robert Rickmers" was dragging?

A. Yes, sir.

Q. And the wind at that time reached the velocity of a gale? A. Yes, sir.

Q. You do not know the size of the anchors that the "Robert Rickmers" had, do you?

A. No, sir, I could not tell you what anchor he had.

Q. Did you stand and watch the "Robert Rickmers" drift constantly from the time she passed the "Corona" until she struck the "Stimson"? A. Yes, sir.

(Deposition of Captain John A. Anderson.)

Redirect Examination.

Q. (Mr. McMICKEN.) You have stated in your direct examination that she fouled the "Mildred" first before she drifted up towards the "Stimson"?

A. Well, I didn't say that she fouled the "Stimson."

Mr. HAYDEN.—I object to this as irrelevant, immaterial, incompetent as to what she did with the "Mildred" or any of these boats.

A. (Continuing.) She took the jib-boom off her and she took it so quick. I didn't hear the crash and didn't pay any attention and I didn't know that she took the jib-boom off until the morning.

Q. In reference to this sweep of the southerly wind; did you take into consideration the lea of West Point; is it not a fact that these vessels were all anchored in the lea of West Point?

A. Yes, they were all to the leeward of West Point, they were all inside there.

Q. How was the water that night—was the water smooth or rough?

A. Well, it was rough; it was so rough my sailors were ashore and they couldn't come out—they were right in the mouth of the creek and they turned back again with the boat.

Q. But West Point breaks the sea, does it not, from the southward in there?

A. Yes, sir, it does bear the sea, but still there is

(Deposition of Captain John A. Anderson.)

such a strong wind as that it makes it more or less choppy.

Recross-examination.

Q. (Mr. HAYDEN.) Does West Point break the wind?

A. No, it don't break the wind; but the sandspit there breaks the sea.

Q. I understood from your testimony that you did not see the "Robert Rickmers" strike the "Mildred," but that you know she struck her because you saw the damage that was done to the "Mildred" the next morning; is that right?

A. Yes, sir, I didn't see her foul the "Mildred."

Q. The "Mildred" was lying somewhat south of the "Corona," wasn't it?

A. To the eastward of the "Corona."

Q. The "Mildred" was lying to the east and to the south of the "Corona"?

A. Yes, the "Mildred" was lying to the west and—

Q. To the east and to the north—or to the west or north, which ever you want to say—I want to find out whether she was lying north of you or south—was the "Mildred" lying north of your ship?

A. The "Mildred" was lying to the westward or southward.

Q. Of your ship? A. Yes, sir.

Q. Then the "Robert Rickmers" struck the "Mildred" before she came to your ship?

(Deposition of Captain John A. Anderson.)

A. She never touched me at all.

Q. She struck the "Corona" before she came to your ship?

A. She struck the "Mildred"—she never touched me at all.

Q. The "Robert Rickmers" struck the "Mildred" before she came to your ship?

A. Yes, sir; but she never came alongside me—she went between.

Q. She struck the "Mildred" before she passed your ship?

A. Yes, sir.

(Testimony of witness closed.)

[Title of Court and Cause.]

Depositions.

Be it remembered that, pursuant to the stipulation herein contained, before me, A. C. Bowman, a notary public in and for the State of Washington, duly commissioned to administer oaths, etc., at my office, Room 200, Burke Building, Seattle, King County, Washington, on this 7th day of November, A. D. 1902, at the hour of 2 o'clock P. M., the libelant appeared by Mr. E. C. Hughes, of proctors for libelant, and the respondent appeared by Mr. Sachse, of proctors for respondent, and it is agreed by and between the parties hereto that the testimony of witnesses produced by the libelant may be taken before A. C. Bowman at this time without

other notice or stipulation, and when transcribed the same may be returned to the court as the depositions of the several witnesses, to be used upon the hearing and trial of said cause, and it is further agreed that the signatures of the witnesses are hereby expressly waived.

Seattle, November 7th, 1902, 2 o'clock P. M.

Continuation of proceedings pursuant to agreement.

Present: Mr. HUGHES, Proctor for the Libelant.

Mr. SACHSE, Proctor for the Claimant.

ROBERT MORAN, a witness called on behalf of the libelant, being duly sworn, testified as follows:

Q. (Mr. HUGHES.) Your name is Robert Moran?

A. Yes, sir.

Q. What is your business?

A. Shipbuilder.

Q. How long have you been engaged in that business?

A. Fifteen years.

Q. In the city of Seattle? A. Yes, sir.

Q. You are familiar with the repairing of ships?

A. Yes, sir.

Q. And the cost of repairing them?

A. Yes, sir.

Q. Are you acquainted with the construction of ships?

A. Yes, sir.

Q. And the value of ships? A. Yes, sir.

Q. Are you one of the appraisers of the four-masted

(Deposition of Robert Moran.)

schooner "Stimson," which was injured in a collision on December 25th, 1901, in collision with the German bark "Robert Rickmers"? A. Yes, sir, I was.

Q. Who was associated with you in making the appraisal of the damages?

A. Captain Burns and Mr. Hall.

Q. Did you make a survey and appraisal of the injury to the ship caused by that collision?

A. We did.

Q. Do you remember when it was that you made that examination?

A. Last January sometime, the first of the year.

Q. What did you do?

A. We went over on board the ship lying in the harbor there and examined her throughout, made specifications and the report.

Q. I will ask you to examine this report and state whether this is the report and whether it contains the report and specifications made by you three appraisers at that time? A. Yes, sir, that is the copy.

Q. The signature to this document is your signature? A. That is my signature.

Q. Now, I will ask you if the report of the survey contains the correct description of the damage which you found upon surveying and examining that ship?

A. Yes, sir.

Q. You state in that report that you estimate the damages to the ship at \$8,500 and \$1,000 for discharging

(Deposition of Robert Moran.)

and reloading the lumber in the ship. I will ask you what you have to say as to whether that is a reasonable and fair estimate of the damages to the ship and the expense of unloading and reloading?

A. Well, that is a reasonable estimate for the cost of repairing the ship, as well as she could be repaired. I do not really consider that it makes the ship as good as she was before she was injured.

Q. That estimate then was an estimate of what it would cost to make the repairs that you specified in the survey? A. Yes, sir.

Q. Was that the reasonable estimate of the cost of these repairs? A. I think so.

Q. Now, why did you make an estimate there in respect to the unloading and reloading?

A. It was necessary to discharge the cargo in order to make the repairs.

Q. And then to reload again afterwards to put her in the condition she was at the time of the collision?

A. Yes, sir, that is right.

Q. Was that thousand dollars a reasonable estimate of that cost?

A. I think it was reasonable, as I remember it, she had about 500,000 feet of lumber to take out and put back.

Q. Now, you have stated that this estimate of \$8,500 is an estimate of what it would cost to repair, as far as she could be repaired, estimating that such repairs were

(Deposition of Robert Moran.)

made, what in your opinion would be the fact as to whether the ship would be as valuable as she was before the collision?

A. Well, that would be impossible, it could not be as valuable.

Q. What in your opinion, would be her damages then after being repaired as fully as would be practicable, in accordance with your survey and in excess of the cost of making such repairs?

A. The damages this ship sustained and the depreciation, after the repairs had been made in accordance with these specifications, I should judge would be probably ten per cent.

Q. Ten per cent of her value?

A. Ten per cent of her value in my judgment.

Q. In other words her permanent damages, which could not be overcome by any repairs put upon her, would be ten per cent in addition to the cost of repairing her as fully as she could be repaired.

A. That is my judgment.

Q. What would that amount to, in your opinion, in other words, what would have been the original value of the ship before the collision?

A. Well, I am not advised as to the exact value of the ship, but I presume her value new would be probably \$50,000 or \$60,000 dollars. I did not examine her particularly as to her exact value new. So that would make from 5 to \$6000=10%, permanent damages.

(Deposition of Robert Moran.)

Q. Did you furnish any labor and material for this ship? A. I think we did.

Q. Moran Brothers Company? A. Yes, sir.

Q. Examine this bill and state whether that is for any labor or materials furnished by you for the repair of the schooner "Stimson" from these damages?

A. Yes, this bill is correct.

Q. Labor and materials were furnished for the repairs of this ship in pursuance of this survey?

A. Yes, sir.

Q. Did you receive from Stimson Brothers, the owners of the ship, the amount of this bill \$542.84?

A. It is paid, yes.

Mr. HUGHES.—We offer this bill in evidence.

(Papers received and marked Libelant's Exhibit "C" attached to and returned herewith.)

Mr. HUGHES.—We offer in evidence the survey made by Messrs. Moran, Burns & Hall.

(Paper received without objection and marked as Libelant's Exhibit "D" attached to and returned herewith.)

Cross-examination.

Q. (Mr. SACHSE.) This statement attached to your report does that contain or refer to the damages to the ship?

A. It specifies the damages, that is written there.

Q. Well, you have no knowledge, have you, of your

(Deposition of Robert Moran.)

own, whether any of these damages have been sustained prior to this time by this ship?

A. I haven't any knowledge of that, no.

Q. In making up this statement as to damages you assumed that everything was in shipshape before the collision, did you?

A. Well, the damage to the vessel as we found her, the ship could not have been in a seaworthy condition and have been in the shape that she was in, or any part of the damage that she had sustained, when we surveyed her. It was something in the way of a collision that had broken her rigging and damaged her in that way. It was not anything in the way of deterioration from use or from age or anything of that kind. It was a violent contact that she had had with something that was the cause of the damage as we surveyed it.

Q. Well, all these items of damages then in this statement covered damages to the ship, newly made damages, that is what you mean?

A. Yes, sir, that is the appearances that the vessel had then when we surveyed her.

Q. And in this report, did you not take into consideration anything that would have been broken, any of these various articles, prior to that time?

A. Of course, as far as that goes, as I said a little while ago, I do not know anything about how this thing happened, I surveyed that ship along with these gentlemen here and we reported on the condition we found her in.

(Deposition of Robert Moran.)

Q. Was all this damage apparently new damages?

A. It was all new.

Q. Can you take this bill of yours and check off the particular damages that you repaired, as shown by this report?

A. I think so.

Q. I wish that you would do so.

A. In connection with the report, it may take a little time to do it.

Q. Indicate by a check mark by your initials, the items which are contained in the statement attached to your report of survey.

A. What we call the specifications.

Q. Put your initials opposite each item, Mr. Moran. (Witness does so.)

A. Now, that bill particularly refers to the repairs of the windlass—

Q. Anything else?

A. And the balance of it is for rigging and chain plates and so forth.

Q. Any other repairs that you made on the ship?

A. No, that is all that is described in there, the chain plates and the rigging and the iron and the windows.

Q. Did you make any other repairs to the ship besides these shown on the bill?

A. I do not know whether we done some work for Mr. Hall or not. It runs in my mind that we did although I could not swear to that.

(Deposition of Robert Moran.)

Q. They have two items in this statement attached to your report, repairs to shrouds.

A. That probably applies to this—you see this is all new, you see this is all referring to the chain plates and that is the same thing. Now, in checking this bill I want to say that I do not bind myself to the statement that everything in that bill has been checked on this one, because there are things described there as chain plates, against the item here that does not call for a chain plate, but it may include the chain plate—you see the point? So in checking the bill I do not undertake to say that all the items on that bill are represented by the check marks that I have put on Specification "D."

Q. You mean to say that there may be items in that bill of \$542, in addition?

A. I mean to say this, if you will excuse me, that the work and material described in this bill, for instance, a chain plate—a turn buckle that has been repaired or renewed cannot be located in this specification by me absolutely correct.

Q. But it may be in this statement for all you know?

A. Well, I know it is in this work. I know it is in this work (referring to Exhibit "D"); there is no question about it, but I would not undertake to say in checking these items and be positive that that particular item in that bill was in the particular items that I have checked here on this specification, but I want it thoroughly understood that everything that is described in

(Deposition of Robert Moran.)

this bill was a part of the repairs on that ship under these specifications.

Q. Did you make any repairs to the jib-boom?

A. I could not say about that. We may have done some iron work, there may be some iron work described on that bill that relates to the jib-boom.

Q. Could you tell from the bill?

A. I could not say positively by reference to the bill.

Q. How about the martingale that was broken?

A. I could not say about that either. To explain that I will say if you will look over this bill you may find repairs to turn buckles and there might be a turn-buckle in the martingale, or something of that kind which could not be particularly located in these specifications.

Q. Well, your bill is for \$542 and some odd cents. Would you estimate the balance of the repairs to that ship at \$9,000?

A. The repairs, the cost of the repairs to the ship were estimated by the appraiser at \$8,500.

Q. Well, would you estimate the balance of the repairs at \$8,000?

A. Yes, so long—this transaction was no part of that estimate at that time. As I understand it I am testifying now as to what appears from this bill—

Q. What I am trying to get at is this. You have a bill in there for \$542 and odd dollars for repairs. Now,

(Deposition of Robert Moran.)

I want to ascertain from you whether the balance of the repairs on the ship—

A. It seems to me this is simply a problem in subtraction.

Q. I want to get at these items by this report?

A. What do you want me to say?

Q. I want you to say if the balance, whether or not the balance on the repairs to that ship would amount to \$8,000?

A. It would be the difference between \$542.82 and \$8,500, as I understand it.

Q. You made none of the other repairs, as far as you know?

A. I would not positively say that, as I said a little while ago. I think we done some iron work for Mr. Hall but I would not be certain about it.

Q. Have you personal knowledge of the repairs that were made on that ship?

A. I have personal knowledge with everything in connection with my business.

Q. In the repairs on this ship?

A. Yes, sir, as far as that work here is concerned.

(Testimony of witness closed.)

Captain H. K. HALL, a witness called on behalf of the libellant, being duly sworn, testifies as follows:

Q. (Mr. HUGHES.) What is your business?

A. I am a shipbuilder.

(Deposition of Captain H. K. Hall.)

Q. Where do you conduct your business?

A. At Port Blakely.

Q. How long have you been engaged in that business, Captain?

A. Fifty years.

Q. Have you ever been master of sailing vessels?

A. No, sir.

Q. You are acquainted with the handling and operation of sailing vessels?

A. Yes, sir.

Q. As well as the building and construction of them and the repairing of them?

A. Yes, sir.

Q. And the value of them?

A. Yes, sir.

Q. I will ask you if you are the H. K. Hall, who in connection with Robert Moran and F. J. Burns, made a survey and appraisalment of the damages to the schooner "Stimson" on the night of January last?

A. I am.

Q. State in a general way what you and the other gentlemen did in making that survey and what you found there?

A. Well, we visited the ship as she laid off in the stream here and examined all the damages that had been done to her, as far as we could see and estimated the cost of the repairs for that damage, as near as we could approximate.

Q. Will you describe in a general way, captain, the character or nature of the damages that you found there?

A. Well, we found two of the masts were ruined, the deck was ripped up, the keelson was split, her rails

(Deposition of Captain H. K. Hall.)

were torn off, her rigging was torn off on one side the whole length of the ship. The quarter chocks were torn up and the quarter rail was carried away, the wheel gear and so forth.

Q. I will ask you if in your survey you described the damages which in your opinion were necessary to be repaired? A. We did.

Q. I will ask you also whether you made an appraisalment of what it would cost to repair that ship, so far as it was practicable to repair it?

A. We did.

Q. Examine this document and state whether that is your signature to this appraisalment and survey?

A. Yes, sir, that is right.

Q. Now, state, Captain, whether the damages described in the survey are correctly described as you found them there, upon your examination?

A. They are.

Q. You may state also, Captain, whether the estimate by you of the extent of these damages, to wit, \$8,500 for the repair of the vessel and \$1,000 for discharging and reloading was a fair and reasonable estimate? A. It was.

Q. I will ask you to state whether there was anything in the condition of that ship to indicate the nature of and cause of the damages you found there, in other words, whether it was wear and tear or whether it came from violent contact with some other object?

(Deposition of Captain H. K. Hall.)

A. They had come from violent contact. The fresh nature of the wreckage showed that it had been recently done.

Q. I will ask you to state whether the repairs of the ship as contemplated by this report and appraisement would put the ship back in the condition that she was immediately before the collision, which caused these damages?

A. It would not.

Q. Well, why not?

A. Because the strain that had been put upon the vessel, the wrenching and the twisting that was caused by the collision, had damaged that vessel to an extent that could not be replaced by any repairs that could be put upon her.

Q. Would that affect the life of the ship?

A. It would take the vitality I should say of at least 10% out of the vessel.

Q. Now, for making the repairs contemplated by that survey, how much, if any, would you say that that ship was worth less than it was immediately before the collision which caused these damages.

A. Well, I should say she was worth 10% less.

Q. Well, how much in money? You are acquainted with the value of ships of that character, how much would you measure that in money, the damage I mean?

A. Well, I should say about \$6,000.

Q. Did you make any of the repairs upon this ship?

A. I did.

Q. I will ask you to examine this statement of account

(Deposition of Captain H. K. Hall.)

or bill rendered to the master and owners of the schooner "Stimson," and state whether or not that was and is a true and correct statement of the work and materials furnished by you or by Hall Bros. In the repair of the schooner, in pursuance of that survey?

A. I can verify that all these items were furnished by us. There are many small items there that I could not carry in my mind, you know.

Q. But you know these items are correct, do you?

A. I know they are correct. The system we have especially of doing that work is such that it is impossible for us to make a mistake. A man when he takes anything out of the yard, out of the warehouse or the blacksmithshop or anywhere else, it is recorded upon the blackboard when he takes it and the timekeeper takes his accounts right from the board every evening.

Q. Now, the total amount of this bill is \$3,386.37. I will ask you if this was paid by the owners of the schooner "Stimson" to you, Hall Bros. What I want to know is whether the bill was paid?

A. Yes, sir, the bill was paid.

Q. I will ask you whether the bill, the total amount of that bill, and each of the items of it was the reasonable charge for the materials furnished and the labor performed? A. It was.

Q. Was it necessary for the repair of that ship everything that was done by Hall Brothers?

A. Yes, sir, everything.

Q. Captain, you are acquainted with Shilshoal Bay?

(Deposition of Captain H. K. Hall.)

A. I know the location of it, I am not very familiar with the ground out there.

Q. Now, if a vessel were anchored there, a ship, in from thirteen to seventeen fathoms of water, off the south shore, and where the shore was sloping out to the north away from shore, or the bottom was sloping to the north away from the shore, with the storm, with southerly winds and heavy squalls prevailing during the afternoon and night, and other ships lying further off shore to the stern of the first mentioned ship, how many fathoms of chain would you say it would require to have her ride safely in the heavy winds and squalls?

A. Blowing a gale?

Q. Yes.

Mr. SACHSE.—We object to this for the reason that it shows that he is not competent to testify.

A. I should say that she ought to have all the chain that she had.

Q. Well, about how many fathoms would you say she ought to have, in order to ride securely, without danger to herself or without danger of her drifting away from her moorings or her anchorage, and upon the other vessels lying at anchor to, the leeward of her.

Mr. SACHSE.—I renew my last objection.

A. I should say that she ought to have 75 fathoms on each chain.

Mr. SACHSE.—I move to strike the answer of the witness for the reason stated in my objection.

(Deposition of Captain H. K. Hall.)

Cross-examination.

Q. (Mr. SACHSE.) What other repairs were made on the ship outside of the repairs that you made and those made by Moran Brothers, if you know?

A. There was rigging made.

Q. You had nothing to do with the rigging?

A. Nothing to do with rigging except trimming out the old masts and stepping the new masts.

Q. What part of the rigging do you mean?

A. I mean the standing rigging, the shrouds and stays.

Q. The part that was damaged as shown by your report?

A. Yes, sir. The parts that were damaged.

Q. None of them is included in Moran's bill?

A. Not that I know of. I do not know anything about the rigging only that portion that came under my charge.

Q. Are you able to state what the cost of the repairs to the rigging would be?

A. No, sir.

Q. Captain, could you take this report of surveys and indicate on that the items covered by your bill for repairs?

A. Well, I do not know, my bill is very extensive. The items are so small.

Q. Did you make the repairs to the jib's boom?

A. Yes, sir. We made a new jib-boom.

(Deposition of Captain H. K. Hall.)

Q. Did you put in any new turnbuckles?

A. Yes, sir.

Q. For the bob stays?

A. For the bob stays, yes.

Q. You put in a new martingale for the one that had been broken?

A. Well, it was repaired by us. We repaired the old martingale.

Q. Here is an item in this survey report "Four top-masts gone and trestle trees squeezed down and broke, cross-trees and outrigger broken." Did you make the repairs to them? A. Yes, sir.

Q. How about the port foremasts back stay broken and jumper stay? A. Well, that was—

Q. Did you repair it?

A. No, sir, that comes in the rigger's work.

Q. How about the mizzenmast fore shroud and top-mast back stay, that was a part of the rigging, was it? A. Yes, sir.

Q. And the jigger is part of the rigging, was it?

A. It is part of the rigging.

Q. How about the dead light, the two ten-inch dead lights that were broken? You repaired these?

A. Yes, sir.

Q. You put in new ones?

A. We put in new ones.

Q. How about the stanchions on the starboard side, fly rail on the poop and rail broken?

A. Yes, sir.

(Deposition of Captain H. K. Hall.)

Q. You repaired them?

A. These were included.

Q. How about the peak after companion-way broken and deck irons for stovepipe on poop?

A. Yes, sir.

Q. You repaired that? A. Yes, sir.

Q. And the three planks on the starboard side abaft the jigger rigging? A. Yes, sir.

Q. You repaired that?

A. We repaired or we renewed that.

Q. And how about one plank floor and a half inches by eight inches on the port side abaft the jigger rigging, did you repair that?

A. Yes, sir, we repaired that, it is a plank on the poop deck.

Q. You say, that you estimate the permanent damages to this schooner at ten per cent?

A. Yes, sir.

Q. How did you arrive at that?

A. I placed the valuation of the vessel at about \$60,000.

Q. Well, was there anything strained or broken about the vessel or the hull of the vessel?

A. There was something that was remarkable, that showed a tremendous strain that had been wrought upon that vessel, the masts from the deck down to the keelson where it was stepped into the keelson, had been strained a severe strain that came upon the masts had

(Deposition of Captain H. K. Hall.)

split the keelson for the length of 60 feet and it was ruined.

Q. Did you renew that? A. Yes, sir.

Q. That is included in your bill, is it?

A. Yes, sir.

Q. Now, after you renewed them did not that make her as strong as before?

A. Made her as strong as before, that portion of the work, fully as strong as before.

Q. And that would apply as to the other repairs that you made, would it not?

A. All the other repairs, yes.

Q. Be just as good as they were before?

A. As far as the repairs were concerned, but it don't relieve the vessel from the strain.

Q. Well, was the vessel wrenched any?

A. Yes, sir.

Q. Twisted?

A. Of course, necessarily must be.

Q. Well, was she?

A. Certainly, she was.

Q. Well, in what way, outside of the keelson, that you spoke of?

A. No, the general strain she showed it by the oakum that had started out of her sides, necessitating recalking her all over.

Q. Did you do any recalking?

A. Yes, sir, we did.

(Deposition of Captain H. K. Hall.)

Q. That is included in the bill?

A. That is included in the bill. There was not a portion of her deck but what the oakum had chewed out.

Q. You say this bill was paid by Stimson Brothers?

A. It was, yes, sir.

Q. Your bill for repairs? A. Yes, sir.

Q. And you did no other work on the ship except that shown by your bill.

A. That is all, sir.

Redirect Examination.

Q. (Mr. HUGHES.) You say the keelson was split back sixty feet?

A. I should judge it was, it took two masts, from one mast to the other, and we had to go a little beyond that.

Q. How big is the keelson on that ship?

A. What we call a rider keelson, the top piece, the keelson is constructed of, I think—her keelson was three tiers with this rider keelson on top 10 inches by 18.

Q. Then that timber, 10x18, sixty feet long, was supplied. A. Yes, sir.

Q. By you for this ship? A. Yes, sir.

Q. The keelson was more than sixty feet long, but it was split back a distance of sixty feet.

A. Yes, sir.

(Deposition of Captain H. K. Hall.)

Q. (Mr. SACHSE.) I will ask you another question, have you ever been a sea captain?

A. No, sir.

Q. Ever had anything to do with the handling of ships, I mean, so far as sailing a vessel is concerned?

A. Never.

Q. Have you been a shipbuilder? A. Yes, sir.

Q. You do not wish the Court to understand that your judgment as to the anchorage that may be necessary to hold a ship is as good as the judgment of the ordinary sea captain, do you?

A. No, I suppose a sea captain, that is his business, but I have a fair knowledge of what is necessary to moor a vessel and to hold her because it becomes necessary when we have vessels in our yards to know how much chain is required to be furnished to each vessel.

Q. (Mr. HUGHES.) But do you know that when you build a ship or have one for repairs, what weight of anchor or what weight of chain is necessary to hold that ship under the varying conditions which may occur?

A. Always.

Q. You have owned and operated ships yourself as owner or part owner for many years, have you not?

A. Yes, sir.

Q. And in your business you have had to give your attention and have had to anchor them under all kinds and conditions of weather? A. Yes, sir.

(Deposition of Captain H. K. Hall.)

Q. (Mr. SACHSE.) What would you say about a ship the size of the "Rickmore" being anchored with a 3,600-weight anchor and a 700-weight stock with a 40-fathom chain, the links of which was 12 inches long and 2 inches thick, being sufficient to hold that ship?

A. How much chain?

Q. Forty fathoms. A. How much water?

Q. Seventeen fathoms.

A. I think it is a rather short scope of chain for that depth of water. The chain must be standing at least 40 degrees with the bottom of the ground where she was anchored and naturally would pull up and lift up on the anchor with such short scope of chain.

Q. Suppose there were only 14 fathoms of water, you still think that 40 fathoms of chain would not be sufficient?

A. No, sir, under the circumstances of a severe gale, that was blowing that night.

Q. That is what you take into consideration?

A. Yes, sir.

Q. A severe gale? A. Yes, sir.

Q. But under ordinary circumstances?

A. Oh, smooth water—

Q. Well, not exactly smooth water but a little breeze blowing?

A. It might do all right, but I do not consider it a safe proposition to anchor a ship of that size with all the top hamper that she would have on her, yards and spars

(Deposition of F. J. Burns.)

and so forth, to catch the wind, with 40 fathoms or even 60 fathoms of chain.

Mr. HUGHES.—We desire to offer in evidence the paper identified by the witness as part of his evidence.

(Paper received and marked Libelant's Exhibit "E" attached to and returned herewith.)

Mr. F. J. BURNS, a witness called on behalf of the libelant, being duly sworn, testified as follows:

Q. (Mr. HUGHES.) What is your full name?

A. F. J. Burns.

Q. What is your business?

A. I am an insurance agent but I have been and was at the time when the survey was made, surveyor for the Marine Board of Underwriters of San Francisco. I have been surveying for them for 14 years until last March.

Q. Have you ever been master of sailing vessels?

A. Yes, sir.

Q. When and for how long?

A. The last 20 years; 26 years or so; I was master for 20 years.

Q. Were you one of the persons who surveyed on the 9th of January last the damages to the schooner "Stimson"?

A. Yes, sir.

Q. Mr. H. K. Hall and Robert Moran were associated with you in making that survey?

A. Yes, sir.

Q. You went on board of the ship?

A. Yes, sir.

(Deposition of F. J. Burns.)

Q. In a general way what did you do and what did you find there?

A. We examined her very carefully and found broken masts and the rigging was broken as described in the survey reports.

Q. I will ask you whether in the report of survey, which is attached to Exhibit "D," you correctly described the nature and extent of the injuries you found?

A. We did.

Q. I will ask you to state whether in the appraisal which is part of the papers embraced in Exhibit "D" you correctly estimated the fair and reasonable cost of making repairs, including the cost of loading and unloading again.

A. We did.

Q. You estimate the cost of repairs at \$8,500; what do you say as to whether that is a fair and reasonable estimate of what it would cost to make the repairs?

A. I believe so now and did at the time.

Q. Would it be necessary to remove her cargo in order to make these repairs?

A. Yes, sir, a portion, almost all the cargo down so as to get at the keelson.

Q. The estimate of \$1,000 is a reasonable estimate for removing the cargo and putting it back again?

A. Yes, sir. It had to be removed on lighters and kept on lighters, and landed and put on lighters again, and that made it very expensive.

Q. Is your name signed to this report of appraisal?

A. Yes, sir.

(Deposition of F. J. Burns.)

Q. Captain, you are acquainted with Shilshoal Bay?

A. Yes, fairly well; I have been on board a great many ships there and I could tell pretty near the depth of water on any vessel that I was on board of, within a few fathoms. I am fairly acquainted with Shilshoal Bay and have surveyed a great many vessels there.

Q. Assuming that on December 25th last a ship, an ordinary sailing vessel—assume that the German ship, the “Robert Rickmore,” of a capacity of between 2,500 and 2,200 tons, anchored off the southern shore of Shilshoal Bay in from 14 to 17 fathoms of water, where the shore was sloping to the northward, I mean where the bottom was descending, sloping to the northward away from the shore and a severe storm was prevailing, with heavy winds and squalls from a southerly direction, blowing off shore, and other vessels were anchored to the leeward, that is, to the north of the “Rickmore,” what would you say and what would be a proper length of chain at which a ship should ride at anchor, as a careful and prudent seaman?

Mr. SACHSE.—I object on the ground that it assumes a state of facts that is not shown to be correct by the evidence.

A. In speaking on my own experience and of ships that I have been in or that I have been master of, and from my acquaintance with other shipmasters and being conversant with them, the ship would not drag if she had her large anchor down and 75 to 90 fathoms of chain,

(Deposition of F. J. Burns.)

90 fathoms of chain would be better, the longer the chain the better. We could anchor even with a small anchor and one chain would be better with a small anchor than a short chain with a heavy anchor. In such a long chain the weight of the chain would keep the anchor down and tend to make the anchor pull into the ground and stop it from breaking away. I have been in Port Townsend when I have anchored a ship in there and it blows there in the winter very often, and I have always let go my large anchor and a large scope of chain, from 60 to 75 fathoms and be in readiness to pay out more, but if there were ships to leeward and I did not have any chance to drag, I would put out the full amount of chain, 90 fathoms, if blowing hard. I would rather have a small anchor with a large scope of chain than a short chain and heavy anchor, and if I happened to be in a position where I could not pay out the chain, I would rather have a small anchor and a large amount of chain than a large anchor with a small amount of chain.

Q. Well, if a ship were in the position where there would be nothing in the way of her paying out all of her chain, and she was anchored off shore with the wind blowing a heavy storm off shore, and in squalls, and in from 13 to 17 fathoms of water, what would you say, how much chain would you say ought a prudent and careful seaman to pay out?

A. The large anchor with 90 fathoms of chain, 75 to 90 fathoms and 90 fathoms is preferable.

(Deposition of F. J. Burns.)

Q. Where the ground in which the anchor is dropped is sloping in the direction in which the ship rides?

A. Yes, sir.

Q. What is the difficulty, if any, in holding a ship, what is the necessity, if any, in putting out the longer chain?

A. A longer chain is necessary there where the bottom is sloping than if it were perfectly level.

Cross-examination.

Q. (Mr. SACHSE.) Supposing, Captain, you were in the tow of a towboat and the towboat brought you up to an anchorage place of this *time*, and at the time of first anchoring the wind was blowing from 6 to 8 knots an hour and there were two or three other ships within three or four ship lengths of you, would you consider it safe to pay out 90 fathoms of chain under these circumstances?

A. If 90 fathoms would not have taken me on top of these vessels, if 90 fathoms had given me a length clear or any distance clear, it would be certainly much safer to let go my 90 fathoms than to take the chances of having a shorter scope out and then dragging because you would be liable to drag on top of them.

Q. Now, I am asking with the wind say from 6 to 8 knots an hour, and you are within three or four ships' lengths of these ships, would it be your opinion as a prudent seaman to pay out 90 fathoms or 40?

A. If calm, I would not pay out 90 fathoms, but cer-

(Deposition of F. J. Burns.)

tainly when it began to breeze up I would pay the chain out. It seldom comes on suddenly, it generally comes on gradually, but I certainly would look out and pay out the chain as the wind increased until I had 90 fathoms.

Q. You would not consider a 7 or 8 knots breeze strong, would you?

A. No, that certainly would not be strong. But I would look at my barometer and if it was low and the indications were that the wind might come up in the night I should watch out, and I would put out my large anchor and have out a safe amount of chain and if it began to breeze up I would put out more chain.

Q. What, in your experience, what anchor do you usually put out, the port or the starboard anchor?

A. That depends which side you have the heavy anchor on. It may be on one side or on the other.

Q. Assuming them both to be of the same size, which is the more convenient?

A. One is as convenient as the other.

Q. On the ordinary sailing ship?

A. Yes, sir, just as convenient; it don't make any difference about that.

Q. Now, how long were you engaged in making this survey of the "Stimson"?

A. We were there some hours; I do not know just how many hours now. I do not remember; probably four hours.

Q. Did you make more than one trip to the ship?

A. Yes, sir, I made two trips. I made a survey my-

(Deposition of F. J. Burns.)

self, a preliminary survey and a report and I went with the others afterwards to make the survey. We made a survey and afterwards when the keelson was in sight, the keelson was broken and after the lumber was taken out we looked at that.

Q. You made a report yourself? A. Yes, sir.

Q. Was that in writing?

A. Yes, sir; I made a preliminary survey, a report to the board of underwriters.

Q. Have you a copy of that?

A. No, I have not.

Q. Whom did you send it to?

A. I gave it to Mr. Stimson. It was Mr. Baxter made a report on it.

Q. Now, in your estimate as to the amount of the chain that is necessary, do you make any allowance for a ship being loaded or in ballast?

A. Well, the lighter she is the more chain is necessary to hold her. Of course, a vessel deep loaded will not hold so much wind and the hull will not hold so much wind as when the ship is in ballast and higher out.

Redirect Examination.

Q. (Mr. HUGHES.) Captain, you made a subsequent report which is attached to the papers in Exhibit "D," after the keelson was laid bare?

A. Yes, sir.

Q. That is the report that has your name to it?

(Deposition of F. J. Burns.)

A. Yes, sir, which is the second report when I was on there.

Q. Captain, what, if anything, did you receive for the survey and report, this first survey and report when made in conjunction with Captain Hall and Mr. Moran?

A. My recollection now is that it was \$50 for this and \$20 for the other.

Q. Now, you may state whether that is the usual and customary charge for making such surveys.

A. Yes, sir.

RICHARD SENNIN, a witness called on behalf of the libellant, being duly sworn, testified as follows:

Q. (Mr. HUGHES.) Were you on the schooner "Stimson" last December? A. Yes, sir.

Q. Are you still mate? A. Until last night.

Q. How long have you been mate on the "Stimson"?

A. Since the time before she was launched in 1900.

Q. That is before she was built?

A. Yes, sir, since before she was launched.

Q. How long have you been a seaman?

A. Since 1873.

Q. How long have you been first mate of sailing vessels? A. Ten years.

Q. Your position on the "Stimson" was that of first mate? A. Yes, sir, first mate.

Q. Where were you on the afternoon and evening of December 25th last?

(Deposition of Richard Sennin.)

A. In the afternoon I was in Ballard; in the evening a quarter of six I was on board of the schooner "Stimson."

Q. Where was the schooner "Stimson" at that time?

A. Anchored in Shilshoal Bay.

Q. When did you go from Ballard back to the ship?

A. I started at 5 P. M.

Q. How did you get to the ship?

A. In the ship's dingey.

Q. Did you row back yourself? A. Yes, sir.

Q. What was the state of the weather at that time?

A. Well, it was a stiff breeze, now and then a puff of wind, light squall.

Q. What other ships were anchored there at that time when you got back there?

A. The schooner "Corona" and the schooner "Mildred," the ship "Robert Rickmore." I did not know her name then, but I know now that it was the "Robert Rickmore."

Q. That is, besides the "Stimson"?

A. Besides the "Stimson."

Q. Had the "Corona" and "Mildred" been anchored there before you left the ship that day to go to Ballard?

A. Yes, sir.

Q. Was the "Rickmore" anchored there at that time, before you left?

A. She was not anchored then.

Q. You found her when you got back?

(Deposition of Richard Sennin.)

A. Yes, sir.

Q. Now, can you indicate on this map the relative positions where these three ships lay at anchor in Shilshoal Bay? A. Yes, sir.

Q. Now, the letter "S" in red pencil to the left of the "Stimson" on this chart Exhibit No. 1?

A. Yes, sir, that indicates the "Stimson."

Q. The letter "C"? A. The "Corona."

Q. And the letter "M" the "Mildred"?

A. Yes, sir.

Q. And the letter "R" the "Robert Rickmore"?

A. Yes, sir.

Q. Is that your idea of their location?

A. Yes, sir, but I have got an opinion that there is a mistake made, that the "Mildred" was here, and the "Corona" over here. (Indicating.)

Q. That is, the two positions of the "Mildred" and the "Corona" should be reversed from where these letters show? A. Yes, sir.

Q. In any case one of them was about where the letter "C" is?

A. The position is about the same, only the matter of the name.

Q. About what distance, in your opinion, were the "Mildred" and the "Corona" from the "Rickmore"?

A. Well, now, I judge the distance to be about a quarter of a nautical mile, you know, from the "Rickmore" straight down to the "Stimson."

(Deposition of Richard Sennin.)

Q. What I have asked was about what was the distance from the other two ships?

A. That would give pretty near an idea; they were lying pretty well in a lump when I saw them lying there, coming off.

Q. What kind of a vessel is the "Stimson"?

A. A four-masted schooner.

Q. What kind of a vessel is the "Mildred"?

A. A three-masted baldheaded schooner.

Q. What is the "Corona"?

A. A three-masted schooner.

Q. And what was the "Rickmore"?

A. A four-masted.

Q. What was the condition of the weather after you got on board ship and from that on until midnight?

A. A strong breeze with heavy squalls occasionally.

Q. Which way was the wind blowing?

A. The wind was blowing from about south southwest; all the vessels were heading south.

Q. And did you notice anything wrong with the "Rickmore" during the evening? A. No.

Q. When your attention first attracted to any trouble of any kind?

A. When a watchman called me at twenty minutes of twelve at night.

Q. What did you do then?

A. I jumped out of bed and slipped on my pants, and when I got on deck I got as far as the main mast, when the "Rickmore" crashed into our jib-boom.

(Deposition of Richard Sennin.)

Q. Did you observe the "Rickmore" just before she crashed into the jib-boom? A. No.

Q. Did you immediately after?

A. Immediately after.

Q. Did you notice her anchor chains?

A. Yes, sir.

Q. Was her position such so that you could see both her starboard and port anchor chains?

A. Not when she struck the jib-boom but after she slued around alongside of us, she came with her stem right into our fore rigging and she got hung up with her fore yard on our starboard fore rigging.

Q. Came with her stem toward you?

A. Athwart our stem and then she slued around this way (showing). And then she sagged until her fore yards caught our fore rigging and I could see across our stem, both anchor chains.

Q. What were they carrying?

A. Both anchor chains were hanging down slack, not any strain on either one of them.

Q. Now, will you go on and describe what occurred from the time you got on deck?

A. Well, when I came on deck—

Q. Describe everything.

A. When I got on deck the first was a crash, when she carried away the jib-boom and then the fore top-mast came tumbling down and then she slued around and got hooked up with her fore yard, all her fore yards

(Deposition of Richard Sennin.)

were braced up to port. That means this (showing); her stem was up here and her yards were braced this way, and when she slued around she hooked her port fore yard arm between the fore mast and the fore rigging and there she stuck. I sung out to the mate of the "Rickmore" to "let go your port fore braces" and the answer I got, he says, "I haven't got any port fore braces"; so she hung up and then a squall struck us and then the fore braces carried away.

Q. Their fore braces carried away?

A. Their fore braces carried away and that gave the vessel a chance, the "Rickmore" a chance to get a little further and her yards swung forward until the top sail sheet, the lower fore topsail sheet, a five eight inch link of iron or perhaps three-quarter links fetched the yard up and held it. Now, of course, there is a clew line to that sheet and a wire to the sail, the lower topsail, and I hauled it up to make it fast, and that carried away after that, but before that she ripped the lower topsail out of the gasket and tore it all to pieces and the clew line carried away and eventually she got clear past the fore rigging and then she got hooked up with the jib-boom on the main mast.

Q. With your jib-boom on her main mast?

A. With her jib-boom on our main mast, because our yards were braced away; we were pointing south and she was south southwest, and the way her yards were braced, the way she came down on top of us, she could not get away at all, and the wind braced her right clear

(Deposition of Richard Sennin.)

on top of us, and she tore the starboard rigging away, and she slued a little further aft and got hung up on the mizzenmast. When she got clear of the fore rigging she tore off the two masts and the whole business.

Q. All the rigging?

A. All our rigging, and she chewed the mizzen mast and the spanker through.

Q. And she eventually got clear of your vessel?

A. Yes, sir.

Q. In the meantime did she carry your vessel with her?

A. Yes, sir.

Q. How far did she take it?

A. Down to Richmond Beach; about seven miles, I guess.

Q. You were fast together during all of that distance?

A. All the time.

Q. Examine this next chart, Exhibit No. 2, and indicate about where you fetched up again, where the "Stimson" fetched up again; is that about where the letter "S" in lead pencil is marked on the map?

A. Yes, sir, and the "Rickmore" is further aft.

Q. Had you anchored before in Shilshoal Bay?

A. Yes, sir, about a dozen times.

Q. And how does the bottom slope from where the "Rickmore" was at anchor?

A. Sloped down this way.

Q. Sloped to the north?

A. To the north.

Q. Toward where the "Stimson" was?

(Deposition of Richard Sennin.)

A. Yes, sir, toward where the "Stimson" was.

Q. Gets deeper as you go north? A. Yes, sir.

Q. Now, the way the wind was blowing that night how much chain do you say a ship like the "Rickmore" should have had to her anchors to ride safely in the position she was and the character of the weather, and the way the winds were blowing and the character of the bottom and the location of the other vessels?

Mr. SACHSE.—I object as calling for a conclusion of the witness.

A. I should not have given less than 90 fathoms of chain.

Q. How much chain was out on the "Stimson"?

A. One hundred and five.

Q. In your opinion was it safe to have had from 33 to 40 fathoms of chain even if both anchors were out?

A. No, sir, it was not safe.

Q. Why not?

A. Because that gives too much leverage on the anchor.

Q. After the "Rickmore" first struck your ship, if the captain of the "Rickmore" had let go his braces, what would have been the effect?

A. The effect would have been that the yards would have swung around to starboard, and the "Rickmore" would have slid clear without injuring the starboard rigging at all.

(Deposition of Richard Sennin.)

Q. Without doing any further damages than they had done by the first collision? A. That is all.

Q. You say you sung out to let go the port fore braces? A. Yes, sir.

Q. Did they do it?

A. He said they had no port fore braces.

Q. What depth of water was the ship anchored in?

A. Nineteen fathoms.

Q. How much of a load did you have on at that time?

A. Well, the deckload was about a foot above the rail.

Q. About what proportion of the cargo capacity?

A. Well, about 650,000 to 675,000, perhaps.

Q. She was carrying 650,000 to 675,000 feet of lumber? A. Yes, sir.

Q. You were carrying a cargo of lumber, were you?

A. Yes, sir.

Q. How long did it take to put that on?

A. Fifteen days.

Q. You had been engaged fifteen days in loading up to that time? A. Yes, sir.

Q. Did you remain with the ship while being repaired? A. Yes, sir.

Q. Did the crew remain? A. Yes, sir.

Q. How was the crew engaged during that time?

A. In the first place there was some preventers to keep the mast from tumbling over. We had to stay

(Deposition of Richard Sennin.)

the masts a little to keep them standing to get the lumber out, and then we had to work the lumber and had longshoremen to put it on scows. Afterwards the sails had to be taken down and the rigging and one thing and another.

Q. Was the crew engaged all the time while the crew was here on account of this collision, either in unloading or loading again or in helping to repair the wreck and doing other work of repairing the ship?

A. Yes, sir.

Q. Repairing the damages that were done?

A. Yes, sir.

Q. Repairing the damages that were done?

A. Yes, sir.

Q. Employed all the time, were they?

A. Yes, sir, helping the carpenters and helping the riggers and helping everybody.

Q. Do you remember when the ship was repaired so as to be able to commence taking in cargo again?

A. Yes, sir, on the tenth of March we were ready to load again.

Q. How long did it take to put as much load in as you had at the time of the collision?

A. Fifteen days.

Q. So that you were delayed 90 days?

A. We were delayed 90 days.

(Deposition of Richard Sennin.)

Cross-examination.

Q. (Mr. SACHSE.) What time did you leave your ship for Ballard that day?

A. At 5 P. M., I left the boat landing in Ballard.

Q. What time did you get to Ballard?

A. I started—

Q. From Ballard—when did you get to Ballard?

A. On Christmas Eve.

Q. And were you in Ballard Christmas Day?

A. I was in Ballard Christmas Day until 5 P. M.

Q. How far is it from Ballard where you took your dingy boat, do you call it? A. Yes, sir.

Q. To where the "Stimson" lay?

A. About two miles; it is about that.

Q. How was the weather at the time that you left Ballard? A. Well, there was a little breeze.

Q. Anyone else in the dingy with you?

A. No, sir.

Q. How long did it take you to go over there?

A. Three-quarters of an hour.

Q. I understood you to say that you did not come on deck until after the collision took place; is that right?

A. I just came on deck when the collision occurred; the watchman called me twenty minutes to twelve. I was six hours on board when that vessel struck us.

Q. What time did the collision occur?

A. Twenty minutes to twelve.

Q. How was the weather then?

A. It was blowing hard when I first arrived on deck.

(Deposition of Richard Sennin.)

Q. Blowing very hard was it? A. Yes, sir.

Q. An unusual gale?

A. Unusually strong gale.

Q. Are you still in the employ of the Stimson Company?
A. Until last night.

Q. Are you not working for them any more?

A. No, I am sick. I ought to be in the hospital to-day instead of being here.

Q. You have not been discharged, have you?

A. No, sir.

Q. You took a lay off? A. Yes, sir.

Q. That is all, is it? A. Yes, sir.

Q. How many anchors did the "Stimson" have out?

A. One.

Q. The port or starboard? A. The starboard.

Q. What is the length of the cable on the "Stimson's" starboard anchor?

A. One hundred and five fathoms.

Q. You had it out the full length?

A. Had it out the full length.

Q. Before the "Rickmore" came into collision with you?

A. Yes, sir, we let it go most of it the day before, we had 105 fathoms out.

Q. Well, the position of the "Rickmore" was rather in a protected place, was it not, from the wind?

A. Yes, sir, it ought to be; it was the closest under the bluff, under the land.

Q. Considered a safe place to anchor?

(Deposition of Richard Sennin.)

A. Well, sometimes it might be and sometimes it might not.

Q. Well, under ordinary circumstances?

A. Well, that night it was not a safe place anyhow. The wind was blowing from the south southwest and it was not a safe place there.

Q. It was safer than where the "Stimson" was that night? A. Yes, sir.

Q. How was it after five o'clock in the evening?

A. At five o'clock in the evening the wind was south southwest.

Q. Was it blowing very hard then?

A. It was not blowing very hard then.

Q. You considered it a perfectly safe place to anchor where the "Rickmore" was at that time?

A. It might have been safe then, but not with that kind of a chain.

Q. What kind of a chain?

A. That the "Rickmore" put out.

Q. How do you know what chain she had out?

A. From statements made in Tacoma last winter.

Q. You are acting upon what the other people have said?

A. Well, certainly that is all I that I know about it. I was not on board the "Rickmore."

Q. Were you down there and heard that testimony?

A. Yes, sir.

Q. You think then that the "Rickmore" was at fault in not having out more cable?

(Deposition of Richard Sennin.)

A. She ought to have had more cable, yes, sir.

Q. As a matter of fact, if she was in that position and had out 90 fathoms of cable, your opinion would be changed, would it not?

A. If she had out 90 fathoms, yes.

Q. On the starboard anchor, yes.

Q. On the starboard anchor?

A. If she had 90 fathoms of chain out she would not have dragged, I do believe.

Q. You do not believe she would? A. No, sir.

Q. You do not believe that she would drag in a gale of that kind? A. No, sir.

Q. With one anchor? A. With one anchor.

Q. How often have you been coming to this bay up here, Shilshoal Bay? A. About a dozen times.

Q. Ever experience any storm as bad as that up there?

A. Yes, sir, worse.

Q. When?

A. I have seen bad ones; October, a year ago, and in November, 1900.

Q. Were there any ships in the harbor at that time?

A. Yes, sir, the "A. M. Baxter" was there.

Q. Did she drag? A. No, sir.

Q. Where was she anchored?

A. About the same place where the "Rickmore" was lying at the time.

Q. That was October of what year?

A. November of 1900.

Q. What ship did you say that was?

(Deposition of Richard Sennin.)

A. The "A. M. Baxter."

Q. How big a ship is she—do you know?

A! Well, she is a schooner, she is about 420 or 430 tons.

Q. A small schooner is she compared with the "Rickmore"?

A! She is not to be compared with the "Rickmore."

Q. Was the "Stimson" anchored there at that time?

A! The "Stimson" was anchored there at that time.

Q. Did she drag her anchors any? A. No, sir.

Q. What day was that in November?

A. I couldn't say exactly the date.

Q. November, 1900? A! Yes, sir.

Redirect Examination.

Q. (Mr. HUGHES.) What is the size of your anchor or the weight of it? A. I guess 3,200 pounds.

Q. Did the "Stimson" drag that night before the "Rickmore" came in collision with it? A. No.

Q. Did either the "Corona" or the "Mildred" drag any? A! Not that I know of.

Q. (Mr. SACHSE.) How do you know the "Stimson" did not drag any?

A. I know because she was in the same position when the watchman called me and the other ship was lying on top of us and she hung on a quarter of an hour, she held the ship and the schooner both on that one chain, in the same position.

(Deposition of Richard Sennin.)

Q. I ask you how you knew that?

A. Because I was awake then, I was on the fore-castle head when the ship was lying right on top of us.

(Testimony of witness closed.)

Captain CHRISTIAN PETERSON, a witness called on behalf of the libelant, being duly sworn, testifies as follows:

Q. (Mr. HUGHES.) You are a master mariner?

A. Yes, sir.

Q. Master of the schooner "Stimson"?

A. Yes, sir.

Q. How long have you been master of her?

A. Two years and a little over.

Q. When was she launched?

A. She was launched in August, 1900.

Q. You were her first master? A. Yes, sir.

Q. Been on her then for a little more than a year when the collision occurred with the "Rickmers"?

A. Yes, sir.

Q. Were you on board at the time of that collision?

A. No, sir, I was not on board.

Q. Where were you?

A. I was at home in Ballard.

Q. Your home is in Ballard? A. Yes, sir.

Q. You were not on the "Rickmers" on Christmas Day at all? A. No, I was not on board.

Q. You were not on board of the "Stimson" on Christmas Day? A. No, sir.

(Deposition of Captain Christian Peterson.)

Q. You did not see the "Rickmers" at anchor there?

A. No.

Q. Captain, do you know how much chain the "Stimson" had out? A. She had out 105 fathoms.

Mr. SACHSE.—I object to this.

Q. How long had you had that out?

A. We put it out the day after we anchored.

Q. How long had you been anchored there?

A. We had been anchored there fifteen days.

Q. Had you been taking on cargo?

A. Yes, sir.

Q. All of that time? A. Yes, sir.

Q. How much cargo had you already on?

A. We had put on 650, or 660,000 feet.

Q. Do you know where the "Mildred" or the "Corona" were anchored? A. Yes, sir.

Q. They were at anchor there the day before and prior to that, were they? A. Yes, sir.

Q. About where were they anchored with reference to the position of the "Stimson"?

A. The "Mildred" was anchored a little to the southwest of the "Stimson" and the "Corona" was a little to the southeast of the "Stimson"; we had one on each bow; we were heading south.

Q. Are you familiar with the lay of the ground there in Shilshoal Bay? A. Yes, sir.

Q. Which way does the bottom slope?

A. It slopes up to the north and westerly.

Q. After the "Robert Rickmers" came to anchor there

(Deposition of Captain Christian Peterson.)

on Christmas afternoon or evening near shore—that is, inside of the “Corona” and the “Mildred,” in about 13 or 14 fathoms of water, being light laden, being in ballast, I mean—what would you say good seamanship would require as to the length of chain that she should have out on her anchors?

A. Well, I should say about 90 fathoms.

Q. Do you know what the weather was on that evening, on that night?

A. Yes, sir, it was stormy and squally.

Q. How was the barometer?

A. It was low. I do not remember exactly how it stood, but it was low.

Q. In that kind of ground would you say that from 33 to 40 fathoms of chain would be sufficient to hold a ship the size of the “Rickmers” at anchor with the wind blowing as it blew that night

A. No, I should not.

Q. What would be the difficulty?

A. Well, with a short scope of chain it would be apt to break the anchors out of the ground.

Q. Would they break out quicker when the ground was sloping in the direction in which the ship was reaching, the opposite direction from which the wind was blowing?

A. Yes, sir, break out much quicker, and then another thing, if she had a short scope of chain and the wind changed, she is liable to foul the anchor. She is quicker to foul the anchor with a short scope of chain than if she has a long scope of chain.

(Deposition of Captain Christian Peterson.)

Q. When did you go on board the "Stimson" again?

A. On the 26th in the morning about eight o'clock or half-past eight.

Q. Where did you find her?

A. I found her on Richmond Beach.

Q. How did you get to her?

A. On the tug "Stimson."

Q. Well, the tug took you there?

A. Yes, sir, the company's tugboat was lying at the wharf.

Q. And there was no charge made for that?

A. No.

Q. Now, captain, in a general way, what condition did you find her in.

A. Well, I found her—all the rigging was torn away on the starboard side, the turnbuckles gone, and the chain plates and the rail and the bulwarks and the masts were chafed considerably too I think and the jib-boom was broken and the fore topmast was broken.

Q. Had she ever received any injuries prior to this time?

A. No, sir.

Q. What was her condition when you left her on the day before Christmas?

A. She was in first-class condition; she was practically new.

Q. You may state whether or not it was necessary to unload the "Stimson" in order to have the repairs made.

(Deposition of Captain Christian Peterson.)

A. Well, I could see the chain plates were broken and we had to get the chain plates and bolts out.

Q. It was necessary to unload her?

A. Yes, sir.

W. Was all the cargo taken out of her?

A. No, there was about 60,000 feet remained in the hold. We had to get down below to the keelsons in order to get at them and repair them.

Q. How many feet did you have in?

A. Six hundred and fifty-five or six hundred and sixty thousand.

Q. So that you had to take out a little over 600,000 feet of lumber?

A. Yes, something like that.

Q. Now, Captain, where did you unload that lumber?
A. At Seattle, here in the bay.

Q. Where did you bring the ship?

A. Brought her up here to one of the buoys.

Q. How did you get it up here?

Q. Towed it up here, had a towboat to tow her.

Q. Was that necessary? A. Yes, sir.

Q. Did you unload her at Seattle?

A. Yes, sir.

Q. Why did you come here to the harbor of Seattle?

A. We had no anchors to lay to and our windlass was broken to pieces.

Q. Your anchors were lost.

A. No, not lost. They were hanging over the bow

(Deposition of Captain Christian Peterson.)

and we could not lift them because our windlasses were broken and we had to hire the boat to lift them for us.

Q. When the anchor was not available you had to make fast to the buoy?

A. Yes, sir, we had to hire one of the buoys.

Q. You came to the ones in Seattle because they were the nearest? A. Yes, sir.

Q. Where did you put the lumber?

A. We put it on lighters.

Q. Was that the only way that you could unload the deck load at that time?

A. Yes, sir, I think it was.

Q. Now, Captain, after she was unloaded what did you do in the way of making repairs?

A. Well, we unbent the sails and stripped her as much as possible.

Q. Who did that? A. The sailors.

Q. Who did the unloading?

A. The sailors and stevedores, both.

Q. Did you keep your entire crew all the time the ship was undergoing repairs? A. Yes, sir.

Q. The unloading and the reloading?

A. Yes, sir.

Q. How were they employed?

A. They were employed by the round trip to San Pedro and return.

Q. What were they engaged in doing all of this time?

A. The work had to be done, the unbending of the

(Deposition of Captain Christian Peterson.)

sails and the taking down of the rigging and the work of that character.

Q. Were they kept engaged with work all of the time? A. Yes, sir.

Q. State whether or not the work that they did was necessary to be done in order to have the repairs made?

A. Yes, sir.

Q. And put the ship back in the condition as nearly as practicable as she was before? A. Yes, sir.

Q. Now, after you unbent the sails where was the ship taken? A. To Port Blakely.

Q. What for? A. For repairs.

Q. How did you get her over there?

A. Towed her over.

Q. Hired a tug for that purpose? A. Yes, sir.

Q. Was that necessary? A. Yes, sir.

Q. When the repairs were completed what did you do then? A. We towed her back to Ballard.

Q. Where was the rigging put on the ship?

A. It was put on over at Ballard. The rigging was put on at Blakely but it was set up down at Ballard while the vessel was loading.

Q. You had her towed back then to the place where she was injured or in that immediate vicinity?

A. Yes, sir.

Q. When did you get back there ready to load again?

A. We got back on the ninth of March.

Q. How long had it taken you to put the cargo in her that was in her at the time the collision occurred?

(Deposition of Captain Christian Peterson.)

A. Fifteen days.

Q. How long did it take you to again put the same kind of cargo in? A. Fifteen days.

Q. How much time was lost by reason of this collision on that ship? A. Ninety days.

Q. In what business was this schooner engaged at the time.

A. In the coasting trade, the lumber carrying trade.

Q. Where were you running?

A. Between Ballard and San Pedro.

Q. Did you have a charter for her cargo to San Pedro? A. Yes, sir.

Q. How was that charter, with reference to value of the preceding charter, the one immediately preceding it, the price?

A. Well, it was at the rate of \$7 a thousand.

Q. Was it the same as the one before?

A. Yes, sir.

Q. How long did it take you to make the round trip before, immediately before this time?

A. Two months.

Q. What is the average time for making this trip to San Pedro?

A. Well, about two months, although we made one trip in 52 days, but it was about two months.

Q. You had been carrying for a little over a year in the same trade, had you? A. Yes, sir.

Q. About how many trips did you make a year?

(Deposition of Captain Christian Peterson.)

A. About six in a year.

Q. The average time would be about 60 days for a round trip?

A. Yes, sir.

Q. You say you had the same charter price for the voyage for which the ship was loading at the time of this collision, as the one immediately preceding.

A. Yes, sir.

Q. Now, what was the net earning of the ship for the charter immediately preceding this trip.

A. Well, I remember we had \$3,500 dividends.

Q. Three thousand five hundred dollars was the net earnings over and above the expenses of the trip, for that trip at the same rate of charter?

A. Yes, sir, the same rate of freight.

Q. What do you say as to whether your expenses would have been the same on this trip?

A. Well, practically the same.

Q. If you had been permitted to make it?

A. Yes, sir.

Q. What would have been the value of the charter for that trip?

A. The same as the trip before.

Q. Did you lose that charter?

A. No, I think not.

Q. Did not you have to carry that for six dollars and a half a thousand after you were repaired?

A. I am not sure about that, I could not swear to that.

(Deposition of Captain Christian Peterson.)

Q. You could not swear as to that, you lost 90 days, you say? A. Yes, sir.

Q. Now, what would have been the net earning capacity or value of that ship for the 90 days?

A. Well, it would be a trip and a half.

Q. Well, how much would that be?

A. About \$5,200 or \$5,300, something like that.

Q. Captain, did you have charge of the disbursement of the account for the repairs of the ship?

A. Well, I O. K.'d the bills; I saw the work was done and I O. K.'d the bills.

Q. Did you personally examine everything that was done? A. Yes, sir.

Q. And was acquainted with the correctness of the bills? A. I was.

Q. Now, Captain, you may examine this bill marked Libellant's Exhibit "F" and state what that was for.

A. That was for provisions on board of the schooner that was used while the vessel was discharging the lumber in Seattle Bay.

Q. Was that a necessary part of the necessary expenses of the schooner? A. Yes, sir.

Q. And its crew while working on her?

A. Yes, sir, while working the cargo.

Q. Was that paid? A. Yes, sir, that was paid.

Q. Is that a correct bill? A. Yes, sir.

Mr. HUGHES.—I offer this in evidence.

(Deposition of Captain Christian Peterson.)

Mr. SACHSE.—I object as irrelevant and immaterial.

(Paper marked Libelant's Exhibit "F" returned herewith.)

Mr. HUGHES.—Examine this paper which had been marked Libelant's Exhibit "F1" and which consists of several documents, now state what these bills were for?

A. These are labor bills for the discharge of the lumber and this bill here is for the taking of testimony at Tacoma by the "Rickmers."

Q. The item of \$4.95.

A. Yes, sir. A list here is for provisions and then here is one while we were moored over here in the bay and then here is one for the sail-makers that should not be included in the bill, that was before this accident occurred. That don't belong there.

Q. Which item is that?

A. The \$10, the sail-maker's bill.

Q. That should be deducted then?

A. That should be deducted. It is dated December 20th, and that is before the accident, and here is one for \$1.30 for the shipping articles.

Q. Then, Captain I will withdraw from the exhibit the two bills that you have last designated as bills that do not belong in this account and they are in here by mistake. The last one here is the payroll of the crew, is it?

A. Yes, and also the disbursements—

(Deposition of Captain Christian Peterson.)

Q. Now, I will ask you to state whether these bills attached here together all under Exhibit "F1" were bills for labor and provisions and supplies actually used and incurred during the period that this ship was undergoing repair? A. Yes, sir, they were.

Q. Are they for labor done upon the ship, necessary to effect the repairs? A. Yes, sir.

Q. Including the labor of the crew?

A. Yes, sir.

Q. And the wages paid them? A. Yes, sir.

Q. I will ask you if all this work that was done represented by the various bills marked here Exhibit "F1" was necessary for the repairs of the ship?

A. Yes, sir, they were.

Q. Were these the actual and reasonable value of the services? A. Yes, sir.

Q. State, Captain, whether the bills were paid.

A. Yes, sir, they were paid.

Mr. HUGHES.—I offer this paper in evidence.

Mr. SACHSE.—I object as incompetent, irrelevant and immaterial.

(Papers marked Libelants' Exhibit "F1" and returned herewith.)

Q. I ask you to examine a paper which I have had marked Libelants' "F2" and state what that is for?

A. That is one of the sailors, they gave him an order on the company to pay him.

Q. That was not embraced in Exhibit "F1"?

(Deposition of Captain Christian Peterson.)

A. No, sir.

Q. This was the regular wages of that sailor?

A. Yes, sir.

Q. The work done by him referred to in this bill was rendered necessary by the collision, was it?

A. Yes, sir.

Mr. HUGHES.—I offer this paper in evidence.

Mr. SACHSE.—I object as incompetent, irrelevant and immaterial.

(Paper marked Libelants' Exhibit "F2" and returned herewith.)

Q. You may examine the paper which has been marked Libelants' Exhibit "F3" and state what that represents?

A. That is also for a sailor.

Q. That is also work rendered necessary by this collision? A. Yes, sir.

Q. And that is the wages actually paid this sailor?

A. Yes, sir.

Q. And not embraced in any other exhibit that has been offered. A. No, sir.

Mr. HUGHES.—I offer this paper in evidence.

Mr. SACHSE.—We renew our last objection.

(Paper marked Libelants' Exhibit "F3" and returned herewith.)

Q. I show you a paper which has been marked Libelants' Exhibit "F4" and ask you to state what that is?

(Deposition of Captain Christian Peterson.)

A. That is also for wages for sailors.

Q. The same facts true of this as of the preceding exhibits? A. Yes, sir.

Mr. HUGHES.—I offer this paper in evidence.

Mr. SACHSE.—We renew our last objection.

(Paper marked Libelants' Exhibit "F4" and returned herewith.)

Q. Examine this paper which has been marked Libelants' Exhibit "F5" and state what that is?

A. That is for a sailor also.

Q. The same is true as of the two preceding exhibits? A. Yes, sir.

Mr. HUGHES.—We offer this paper in evidence.

Mr. SACHSE.—We renew our last objection.

(Paper marked Libelants' Exhibit "F5" and returned herewith.)

Q. Examine this paper which has been marked Libelants' Exhibit "F6" and state what that is?

A. That is for a seaman also.

Q. The same facts are true of this as of the preceding exhibits? A. Yes, sir.

Mr. HUGHES.—We offer this paper in evidence.

Mr. SACHSE.—We object as incompetent, irrelevant and immaterial.

(Paper marked Libelants' Exhibit "F6" and returned herewith.)

(Deposition of Captain Christian Peterson.)

Q. Examine this paper which has been marked Libelants' Exhibit "F7" and state what that represents?

A. That is for supplies for the time that we were loading.

Q. All of the items hereafter December 19th embraced in the circle marked on the paper?

A. Yes, sir.

Q. Amounting to \$57.16? A. Yes, sir.

Q. These items are for supplies while the vessel was laid up for sustaining the crew and feeding the crew?

A. While loading the vessel.

Q. Was that paid?

A. Yes, sir, that is paid.

Q. And are these prices reasonable and ordinary prices for the matters mentioned?

A. Yes, sir, that is the price we always pay.

Mr. HUGHES.—We offer this paper in evidence.

Mr. SACHSE.—We object as incompetent, irrelevant and immaterial.

(Paper marked Libelants' Exhibit "F7" and returned herewith.)

Q. Examine this paper which has been marked Libelants' Exhibit "F8" and state what items on that bill after December 24th represent?

A. That is for supplies and groceries.

Q. What were they used for?

A. For feeding the crew while the vessel was loading.

(Deposition of Captain Christian Peterson.)

Q. The prices are reasonable prices.

A. Yes, sir.

Q. What is the total amount of the items there furnished after March 7th and while the crew was loading?

A. Forty-nine dollars and twenty-eight cents.

Mr. HUGHES.—We offer this paper in evidence.

Mr. SACHSE.—We renew our last objection.

(Paper marked Libelants' Exhibit "F8" and returned herewith.)

Q. You may examine this paper which has been marked Libelants' Exhibit "F9" and state what that is?

A. That is for reloading the vessel, that is a labor bill.

Q. Was this amount of wages actually due these persons. A. Yes, sir.

Q. For work done in reloading the lumber that was taken off the "Stimson?" A. Yes, sir.

Q. For the purpose of repairs? A. Yes, sir.

Q. I will ask you if the supplies were necessary for the maintenance and the keeping of the men while they were reloading to the extent that the ship had to be unloaded to make the repairs.

A. They were.

Q. In using the word "reloading" you refer to putting back the cargo that had been taken out of the ship?

A. Yes, sir, exactly.

(Deposition of Captain Christian Peterson.)

Q. I will ask you whether this has been paid to these men? A. Yes, sir.

Mr. HUGHES.—We offer this paper in evidence.

Mr. SACHSE.—We object as incompetent, irrelevant and immaterial.

(Paper marked Libelants' Exhibit "F9" and returned herewith.)

Q. Examine the paper which has been marked Libelants' Exhibit "F10" and state what that represents?

A. That is a labor bill.

Q. The same facts are true of that as of the preceding exhibit? A. Yes, sir.

Q. Was that paid? A. Yes, sir.

Mr. HUGHES.—We offer this paper in evidence.

Mr. SACHSE.—We object as incompetent, irrelevant and immaterial.

(Paper marked Libelants' "F10" and returned herewith.)

Q. Examine Exhibit "F11" which has just been marked such and state what that is?

A. That is a labor bill also.

Q. Are the same facts true of that as of the preceding exhibit? A. Yes, sir.

Q. Was that also paid? A. Yes, sir.

Mr. HUGHES.—We offer this paper in evidence.

Mr. SACHSE.—We renew our last objection.

(Deposition of Captain Christian Peterson.)

(Paper marked Libelants' Exhibit "F11" and returned herewith.)

Q. You may examine this paper which has been marked Libelants' Exhibit "F12" and state what that represents?

A. That is for a labor bill.

Q. The same facts are true of that as of the preceding labor bills that have been offered in evidence?

A. Yes, sir.

Q. Was it paid? A. Yes, sir.

Mr. HUGHES.—We offer this paper in evidence.

Mr. SACHSE.—We renew our last objection.

(Paper marked Libelants' Exhibit "F12" and returned herewith.)

Q. You may examine the paper which has been marked Libelants' Exhibit "F13" and state what that represents?

A. That is for lifting an anchor. We could not lift that ourselves on account of the windlass being broken to pieces. The steamer "Rapid Transit."

Q. The services of a wrecking schooner?

A. Yes, sir.

Q. That was \$200? A. Yes, sir.

Q. Were these services rendered necessary by reason of this collision? A. Yes, sir.

Q. Was that amount paid? A. It was.

Mr. HUGHES.—We offer this paper in evidence.

(Deposition of Captain Christian Peterson.)

Mr. SACHSE.—We object as incompetent, irrelevant and immaterial.

(Paper marked Libelants' Exhibit "F13" and returned herewith.)

Q. You may examine the paper which has been marked Libelants' Exhibit "F14" and state what the last item on this Exhibit "F14" under date of December 28 represents, this \$50.

A. A towage from Richmond Beach to Seattle.

Q. What vessel did that towing?

A. The steamer "Dolphin."

Q. Was that a reasonable charge?

A. Yes, sir.

Q. Was it paid? A. Yes, sir, it was paid.

Q. Was that towing after the collision?

A. Yes, sir.

Q. From Richmond Beach to Seattle?

A. Yes, sir.

Q. That was rendered necessary by the collision?

A. Yes, sir.

Mr. HUGHES.—We offer this paper in evidence.

Mr. SACHSE.—We renew our last objection.

(Paper marked Libelants' Exhibit "F14" and returned herewith.)

Q. Examine this paper which has been marked Libelants' Exhibit "F15" and state what that is?

A. That is for Captain Burns' survey.

(Deposition of Captain Christian Peterson.)

Q. Was that for the survey of the ship after the accident? A. Yes, sir.

Q. You have heard Captain Burns' testimony?

A. Yes, sir.

Q. This was the bill rendered for this service that he testified to? A. Yes, sir.

Q. Was it paid? A. Yes, sir.

Q. Was that the customary and reasonable charge for such services? A. Yes, sir, it is.

Mr. HUGHES.—I offer this paper in evidence.

Mr. SACHSE.—We renew our last objection.

(Paper marked Libelants' Exhibit "F15" and returned herewith.)

Q. You may examine the paper which has been marked Libelants' Exhibit "F16," and state what that is?

A. That is for the survey, by Mr. Moran.

Q. Was that for the survey that was made by Robert Moran in conjunction with Captain Burns and Captain Hall? A. Yes, sir.

Q. Is that a reasonable charge? A. Yes, sir.

Q. Was it paid? A. Yes, sir.

Mr. HUGHES.—We offer this paper in evidence.

Mr. SACHSE.—We renew our last objection.

(Paper marked Libelants' Exhibit "F16" and returned herewith.)

(Deposition of Captain Christian Peterson.)

Q. Examine the paper which has been marked Libelants' Exhibit "F17" and state what that is.

A. That is also a survey bill.

Q. The same facts are true of that as of the preceding exhibit? A. Yes, sir.

Q. It was paid, was it? A. Yes, sir.

Mr. HUGHES.—We offer that in evidence.

Mr. SACHSE.—We renew our last objection.

(Paper marked Libelants' Exhibit "F17" and returned herewith.)

Q. You may examine the paper which has been marked Libelants' Exhibit "F18," and state what that is?

A. It is a bill for rent of lighters on which we stowed the lumber that we discharged from the schooner?

Q. Was this necessary on account of this collision?

A. Yes, sir.

Q. Was that a reasonable bill?

A. Yes, sir, I think it is.

Q. Was it paid? A. Yes, sir.

Mr. HUGHES.—We offer this paper in evidence.

Mr. SACHSE.—We renew our last objection.

(Paper marked Libelants' Exhibit "F18" and returned herewith.)

Q. You may examine the paper which has been

(Deposition of Captain Christian Peterson.)

marked Libelants' Exhibit "F19" and state what that is?

A. That is a coal bill used in discharging the cargo.

Q. Was that coal necessary for the discharge of the cargo? A. Yes, sir.

Q. Was it a reasonable bill? A. Yes, sir.

Q. That is, for the discharge of the cargo rendered necessary by this collision? A. Yes, sir.

Q. Was it paid? A. Yes, sir.

Mr. HUGHES.—We offer this paper in evidence.

Mr. SACHSE.—We object as incompetent, irrelevant and immaterial.

(Paper marked Libelants' Exhibit "F19" and returned herewith.)

Q. You may examine the paper which has been marked Libelants' Exhibit "F20" and state what that is? A. That is a bill for supplies.

Q. A bill of Schwabachers and Company?

A. Yes, sir.

Q. What were these supplies for?

A. They were used while we were lying here repairing and unloading and repairing.

Q. Were they necessary for the support of the crew?

A. Yes, sir.

Q. The items and charges there are reasonable?

A. Yes, sir.

Q. They were paid? A. Yes, sir.

(Deposition of Captain Christian Peterson.)

Mr. HUGHES.—We offer this paper in evidence.

Mr. SACHSE.—We object as incompetent, irrelevant and immaterial.

(Paper marked Libelants' Exhibit "F20" and returned herewith.)

Q. Examine this paper which has been marked Libelants' Exhibit "F21" and the several items of the Schwabacher Hardware Company and state what that represents?

A. That was for glass, lights that were broken.

Q. Broken by the collision?

A. Yes, sir. One of the dead lights and there is wire rigging and wire sieve.

Q. And the last one?

A. That is for scrapers and hack saws for scraping the pitch off the deck.

Q. I will ask you if the items enumerated in these bills were all necessary to be purchased for the purposes of repairing the ship? A. Yes, sir.

Q. From the injuries caused by this collision?

A. Yes, sir.

Q. Were the charges here reasonable charges?

A. Yes, sir.

Q. Was the total bill paid? A. Yes, sir.

Mr. HUGHES.—I offer this paper in evidence.

Mr. SACHSE.—We object as incompetent, irrelevant and immaterial.

(Deposition of Captain Christian Peterson.)

(Paper marked Libelants' Exhibit "F21" and returned herewith.)

Q. You may examine the paper which has been marked Libelants' Exhibit "F22" and state what that is?

A. That is for tackles and ropes that were lost when the ship smashed us and we had to replace them on account of the collision.

Q. Were the items on that bill rendered necessary on account of the collision for the repairing of the ship?

A. Yes, sir.

Q. Are the charges reasonable? A. Yes, sir.

Q. Was the bill paid? A. Yes, sir.

Mr. HUGHES.—We offer this paper in evidence.

Mr. SACHSE.—We object as incompetent, irrelevant and immaterial.

(Paper marked Libelants' Exhibit "F22" and returned herewith.)

Q. You may examine the several bills which have been marked Libelants' "F23" and state what they represent?

A. This is for meat and vegetables.

Q. Were these meats and vegetables used on the sailing vessel when she was repaired?

A. Yes, sir.

Q. Were they necessary for the support of the crew during that period? A. Yes, sir.

(Deposition of Captain Christian Peterson.)

Q. The items were reasonable items and the charges reasonable? A. Yes, sir.

Q. Were they paid? A. Yes, sir.

Mr. HUGHES.—We offer this paper in evidence.

Mr. SACHSE.—We object as irrelevant, and immaterial.

(Paper marked Libelants' Exhibit "F23" and returned herewith.)

Q. You may examine the paper which has been marked Exhibit "F24" and state what that is—I will ask you what the last three items represent?

A. That is for bringing us coal and supplies while tied up at the buoy at Seattle.

Q. The last three items on this bill do not belong to the repair of the "Stimson" from the injuries caused by the collision? A. No, sir.

Q. But this \$15 on this bill are for the use of the "Stimson" as represented there?

A. For bringing coal and water and provisions from the shore to the schooner.

Q. Was it necessary account of this collision?

A. Yes, sir.

Q. The total amount then of this bill for the carrying of coal and supplies to you was occasioned by the collision and amount to \$213.30? A. Yes, sir.

Q. The balance of that bill was not intended to be included in the necessary cost of the repairs of this ship and damages occasioned by the collision?

(Deposition of Captain Christian Peterson.)

A. No, sir.

Q. Was the bill paid? A. Yes, sir.

Mr. HUGHES.—We offer the bill in evidence.

Mr. SACHSE.—We object as irrelevant and immaterial.

(Paper marked Libelants' Exhibit "F24" and returned herewith.)

Q. You may examine the paper which has been marked Exhibit "F25" and state what the two items under date of December 30th and 31st on this bill represents, amounting to \$12?

A. That is for bringing Captain Burns off for surveying that is \$5 and furnishing 1400 gallons of water \$7, that was on the 30th and 31st of December.

Q. What was the necessity of bringing that water?

A. To supply the crew and the donkey.

Q. During the period of unloading and repairing?

A. Yes, sir, and unloading.

Q. Was that paid? A. Yes, sir.

Q. Were the charges reasonable? A. Yes, sir.

Mr. HUGHES.—I offer this paper in evidence.

Mr. SACHSE.—I object as incompetent, irrelevant and immaterial.

(Paper marked Libelants' Exhibit "F25" and returned herewith.)

Q. You may examine the bill which has been marked Libelants' Exhibit "F23"?

(Deposition of Captain Christian Peterson.)

A. This is the freight bill for the wire rigging.

Q. Was that bill paid to the Great Northern Road?

A. It was.

Q. Was the freight on the wire rigging?

A. It was.

Q. Was that wire rigging necessary for the repair of that ship?

Mr. HUGHES.—We offer this bill in evidence.

Mr. SACHSE.—We object as irrelevant and immaterial.

(Paper marked Libelants' Exhibit "F26" and returned herewith.)

Q. You may examine the paper which has been marked Libelants' Exhibit "F27" and state what that is.

A. That is freight on rigging and turn buckles, from San Francisco to Seattle.

Q. Was that paid? A. Yes, sir.

Q. Was the rigging necessary for the repair of the ship? A. It was.

Mr. HUGHES.—We offer this paper in evidence.

(Paper marked Libelants' Exhibit "F27" and returned herewith.)

Q. Examine the paper which has been marked Libelants' Exhibit "F28" and state what that represents?

A. That is for boat hire bringing the riggers from Ballard on board of the schooner, on the Sound, when she was loading.

(Deposition of Captain Christian Peterson.)

Q. Was that necessary on account of the collision?

A. Yes, sir.

Q. Was it a reasonable charge? A. Yes, sir.

Q. Was it paid? A. Yes, sir, it was.

Q. Was it necessary for the repair of the ship?

A. Yes, sir.

Mr. HUGHES.—We offer this paper in evidence.

Mr. SACHSE.—We object as irrelevant and immaterial.

(Paper marked Libelants' Exhibit "F28" and returned herewith.)

Q. You may examine the paper which has been marked Libelants' Exhibit "F29" and state what that is.

A. That is boat hire for the crew and machinists to repair the windlass after it was put in. There was some little things to be done to it after Moran had repaired it in Ballard.

Q. Were these items all necessary to repair the ship and the damages caused by this collision?

A. It was.

Q. The items reasonable? A. Yes, sir.

Q. Were they paid?

A. Yes, sir, they were paid.

Mr. HUGHES.—We offer this paper in evidence.

Mr. SACHSE.—We object as irrelevant and immaterial.

(Deposition of Captain Christian Peterson.)

(Paper marked Libelants' Exhibit "F29" and returned herewith.)

Q. You may examine the several bills fastened together which have been marked Libelants' Exhibit "F30" and state what they represent?

A. That is for wood, the freight for rigging to Ballard and for towage and dragging for an anchor in Shilsboal Bay?

Q. This is for the services for the tug "Mountaineer"?

A. Yes, sir.

Q. The tug "Mountaineer" is owned by the Stimson Mill Company? A. Yes, sir.

Q. The services, I see one of them here is for spars?

A. Yes, sir, for the masts.

Q. They were purchased from the Stimson Mill Company? A. Yes, sir.

Q. Were the services rendered here by the tug necessary on account of the collision that occurred to the schooner with the "Rickmers"?

A. Yes, sir, with the exception of the last bill there, dragging for the anchor, I do not know anything about that.

Q. The steamer "Stimson," what is that—is that a steamer that towed the spars over to it?

A. Yes, sir.

Q. And the steamer "Stimson" and the "Mountaineer" both belong to the Stimson Mill Company?

A. Yes, sir.

(Deposition of Captain Christian Peterson.)

Q. And they both rendered services that are enumerated in this bill? A. Yes, sir.

Q. The last item of \$8 was for dragging upon the anchor?

A. Yes, sir. I do not know anything about that.

Q. But the other items were for?

A. Supplies for the vessel.

Q. Were they necessary? A. Yes, sir.

Q. Services and materials that were mentioned in these bills were all required on account of the collision?

A. Yes, sir.

Q. Were the prices reasonable? A. Yes, sir.

Q. They were paid?

A. Yes, sir, they were paid.

Mr. HUGHES.—We offer the bill in evidence.

Mr. SACHSE.—We object as irrelevant and immaterial.

(Paper received and marked Libelants' Exhibit "F30" and returned herewith.)

Q. You may examine the paper which has been marked Libelants' Exhibit "F31" and state what that represents?

A. That is for hanging up the rigging, setting it up.

Q. Was that necessary and rendered necessary by reason of the collision? A. Yes, sir. It was.

Q. Are the charges there reasonable?

A. Yes, sir.

(Deposition of Captain Christian Peterson.)

Q. Were they paid.

A. Yes, sir, they were.

Mr. HUGHES.—I offer the paper in evidence.

Mr. SACHSE.—I object as irrelevant and immaterial.

(Paper marked Libelants' Exhibit "F31" and returned herewith.)

Q. Examine the paper which has been marked Libelants' Exhibit "F32" and state what that represents?

A. That is the bill for the rigging and the turn-buckles from San Francisco?

Q. The items enumerated in this bill all used in the repair of this ship? A. Yes, sir.

Q. In making the repairs rendered necessary by this collision? A. Yes, sir.

Q. Are they reasonable charges? A. Yes, sir.

Q. Were they paid?

A. They were, Mr. Hughes.

Mr. HUGHES.—I offer this paper in evidence.

Mr. SACHSE.—I object as irrelevant and immaterial.

(Paper marked Libelants' Exhibit "F32" and returned herewith.)

Q. Examine the several bills in the paper which has been marked Libelants' Exhibit "F33" and state what they are?

A. This first bill was for material that was broken in the collision and also the freight from Seattle to Port Blakely. This is for a donkey-man who was scalded

(Deposition of Captain Christian Peterson.)

while setting up the rigging at Port Blakely, scalded in the donkey-room. It is a doctor's bill and this here is a freight bill for bringing the supplies from Seattle to Port Blakely.

Q. For what purposes and what kind of supplies?

A. Beef and chain plates.

Q. Generally speaking were these supplies for the maintenance of the crew and the repair of the ship?

A. Yes, sir.

Q. During the period that she was undergoing repair?

A. Yes, sir.

Q. The last bill?

A. Is a store bill at Port Blakely.

Q. What were these stores for represented by the last one of these bills?

A. They were to supply the crew and board while the vessel was loading and for ship chandlers while setting up the rigging.

Q. Well, it was for the supplies for the crew and for material and supplies for the repair of the ship?

A. Yes, sir.

Q. The supplies used for the ship in making the repairs?

A. Yes, sir.

Q. And in maintaining the crew during the period while the repairs were going on?

A. They were.

Q. While the crew were engaged in rendering services in these repairs?

A. Yes, sir.

(Deposition of Captain Christian Peterson.)

Q. I will ask you if they were all necessary by reason of this collision. A. Yes, sir, they were.

Q. State whether the charges were all reasonable charges? A. Yes, sir, they are.

Q. Were they paid? A. They were.

Mr. HUGHES.—We offer the paper in evidence.

Mr. SACHSE.—We renew our last objection.

(Paper marked Libelants' Exhibit "F33" and returned herewith.)

Q. I will ask you to examine Exhibit "C" and state what that represents?

A. That represents the repair of the windlass and the placing of the turnbuckles that were broken in the collision.

Q. Furnished by Moran Brothers?

A. Yes, sir.

Q. Were they necessary to repair the ship for the damages caused by the collision? A. They were.

Q. Was the price reasonable? A. Yes, sir.

Q. Was the bill paid? A. It was.

Q. You may examine Exhibit "E" and state what that represents.

A. That represents the repair of the vessel caused by the collision of the "Rickmers," the repair of her hull.

Q. Were the items here furnished used in the repair of the ship? A. Yes, sir.

Q. Were these charges reasonable?

A. Yes, sir.

(Deposition of Captain Christian Peterson.)

Q. Was the bill paid? A. Yes, sir.

Q. Now, Captain, any of the items represented by the bills that you have identified here, I will ask you to state whether or not these materials and supplies were all under your supervision? A. Yes, sir.

Q. You were master in immediate charge of the ship during all of this time? A. Yes, sir.

Q. I will ask you whether all that you have identified were for materials, supplies and provisions and for labor? A. Yes, sir.

Q. Rendered necessary for the work of repairing this ship, including the maintenance of the crew while engaged in that manner, and occasioned by the collision?

A. Yes, sir; they are.

Q. You have already stated that the total time lost by this collision from the time of the collision until your ship was prepared and its cargo restored to the extent that it was originally at the time of the collision was ninety days. A. Yes, sir.

Cross-examination.

Q. (Mr. SACHSE.) Captain, in this Exhibit "F1," which is dated Ballard, December 9, 1901, the last sheet having a total of \$1,301.46, what does that represent?

A. That represents the total of the amount.

Q. But for what?

A. This is for wages from December 10 to January 10.

Q. To January 10?

(Deposition of Captain Christian Peterson.)

A. Yes, sir; this sheet represents that amount.

Q. So that you include 15 days before the accident in this account as shown here? A. Yes, sir.

Q. Of the wages of the men? A. Yes, sir.

Q. Making it part of this \$1501?

A. Yes, sir; I think so. Yes, that is right.

Q. The same is true on the other side of that long sheet? A. Yes, sir.

Q. How about the items of December 31, for instance labor unloading at Seattle \$244.80, is that included in any of these other bills? A. No, sir.

Q. That is not included?

A. No, sir. There is the bill that is for this labor that I O. K.'d.

Q. That is not included in this bill?

A. This is my sheet for the whole disbursement. It is copied from the other bills.

Q. Then you mean to be understood that this sheet is simply a summary of the others? A. Yes, sir.

Q. The sheet marked Exhibit "F1"?

A. Yes, sir. That sheet is self-explanatory.

Q. What is the capacity of the "Stimson," how much lumber could she carry?

A. She carries a little over 900,000.

Q. Well, now you spoke about—

A. Say about 920 or 950, but about 920,000 on an average.

Q. The usual price is \$7 per thousand?

A. Yes, at that time.

(Deposition of Captain Christian Peterson.)

Q. From here to San Pedro? A. Yes, sir.

Q. What freight do you bring up from San Pedro?

A. Coming up in ballast generally; would sometimes bring a little freight.

Q. It takes two months to make the round trip?

A. Yes, sir.

Q. The total earnings of your schooner for two months, the gross earnings would be \$6,856; is that correct? A. Yes, sir.

Q. How much would it cost to load that lumber on the schooner, that 900,000 feet of lumber?

A. Well, it costs us about 40 cents a thousand; that is, besides the sailors. I do not know how we figure that.

Q. How much does it cost to unload it, outside of the cost of the sailors.

A. It will cost us—excuse me, we have to give the men 40 cents an hour and two meals a day. I do not know what that would amount to but that is what they charge us here in Ballard for loading the vessel. I don't know how much that amounts to.

Q. If you paid 40 cents a thousand for loading, the loading would cost you about \$380.

A. Something like that.

Q. How much would it cost you to unload?

A. It would be about the same.

Q. About the same for unloading? A. Yes, sir.

(Deposition of Captain Christian Peterson.)

Q. Now, 80 cents per thousand would represent the cost of loading and unloading at both ends?

A. Yes, sir.

Q. That is correct, is it?

A. I made a mistake there; it is forty cents an hour; I did not mean 40 cents a thousand feet.

Q. Can you tell how much it would cost per thousand to load it, how much it would cost to load 950,000 feet of lumber on the "Stimson"?

A. We load her for about 20 days.

Q. Cannot you give us in money what it would cost to load her?

A. I never figured it that way.

Q. Was it as much as \$1,000?

A. No, not quite so much as that.

Q. Was it \$500? A. Yes, sir.

Q. Seven hundred and sixty dollars?

A. Maybe about \$800.

Q. And the same amount to unload it?

A. Yes, sir.

Q. That would be \$1,600? A. Yes, sir.

Q. How much crew did you carry?

A. We had ten all told.

Q. And what is the wages of the crew per month including yourself?

A. Five hundred and fifteen dollars, exactly, per month.

(Deposition of Captain Christian Peterson.)

Q. Now, there was some cost of provisions for these few months?

A. The stores and the ship's chandlery amount to about \$600 or \$700.

Q. Well, then, the cost of making the round trip from here to San Pedro with 950,000 feet of lumber is, about \$3,300.

A. Yes, sir; that is about as near as I can tell.

Q. So, that the net earnings of the schooner within any two months would not exceed over \$3,500?

A. No, something like that.

Q. That is correct, is it?

A. That is pretty near, as near as I can guess at it.

Q. You do not count anything in the way of interest or anything like that? A. No.

Q. How long have you been a ship's captain?

A. About 18 years.

Q. How old are you, Captain? A. Forty-six.

Q. Have you ever had charge of large ships, such as the "Rickmers"? A. No, sir.

Q. What is the largest ship that you have ever been on? A. The "Stimson."

Q. She is the largest that you have been master of?

A. Yes, sir.

Redirect Examination.

Q. (Mr. HUGHES.) Captain, I want to call your attention to Exhibit "F1." The back of that exhibit con-

(Deposition of Captain Christian Peterson.)

tains the payroll of the regular crew there, does it, from December 9th to—that is, of these men who were serving between December 9th and March 3d?

A. There are different dates there. It could not be taken out of these dates.

Q. There are some of these that run as late as March 3d?

A. Yes, sir. The dates are all included on the other bills. I have given a memorandum of these bills.

Q. Now, in some instances these commence as early as the 10th of December, but they do not any of them run later than March 9th? A. No.

Q. I will ask you whether in these cases you carried in the period from March 9 to March 25 when you were loaded as far as you had been at the time?

A. No, I paid the crew up until March 9 or 10.

Q. So that while you commenced it on December 10, 15 days before the 25th, you did not charge for the corresponding 15 days between March 10th and 25th?

A. No.

Q. When you were reloading?

A. No, it it was charged up on my next statement, the statement for the coming trip.

Q. But that statement is not included in these bills?

A. No, sir.

Q. So that the actual amount of time is only the time lost by reason of this collision? A. Yes, sir.

Q. And while in this bill you have included 14 days before the collision?

(Deposition of Captain Christian Peterson.)

A. We have not included 15 days after March 10th.

Q. After March 10th to 25th, after you had the vessel reloaded as far as she was before the collision?

A. Yes, sir.

Q. So that there is no excess charge?

A. No, sir.

Q. And the same rate of wages prevailed between March 10th and 25th?

A. The same rate of wages and the same rate of wages still.

Q. (Mr. SACHSE.) When was the vessel reloaded?

A. I forget exactly the date.

Q. I understood you to say it was March 25th?

A. At that time we had the same amount of lumber in.

Q. Do you usually take down 950,000 feet of lumber to San Pedro? A. Yes, sir, 953,000 a couple of times.

Q. I mean the usual load? A. Say 940,000.

Q. How was it the trip just previous to the collision?

A. Nine hundred and fifty-three thousand at that time.

(Testimony of witness closed.)

Mr. C. D. STIMSON, a witness called on behalf of the libellant, being duly sworn, testifies as follows:

Q. (Mr. HUGHES.) Mr. Stimson, for the purpose of abbreviating the examination as much as possible, I will ask you if you have gone over and personally examined all of these bills that are introduced in evidence under the various exhibits? A. Yes, sir.

(Deposition of C. D. Stimson.)

Q. Now, you are one of the libelants, are you?

A. Yes, sir.

Q. Have these bills been paid?

A. Yes, sir, all of them.

Q. Paid by the libelant?

A. Yes, sir, all of them in full.

Q. Before payment did they pass under your personal supervision to ascertain their correctness?

A. Yes, sir.

Q. Did you ascertain whether they were correct before making the payment?

A. Yes, sir.

Q. Did you find them so?

A. Yes, sir.

Q. I will ask you for the purpose of the convenience of the Court when it comes to going over the testimony, to examine this statement which I have marked Libelants' Exhibit "G" and state whether or not that is a summary of all the bills that are introduced as exhibits in this case, the various items of the expense incident to the collision?

A. Yes, sir, these are the amounts we paid.

Q. Now, in the testimony of Captain Peterson, two bills were withdrawn from these exhibits representing \$11.50 and one other that appears here has been stricken out, amounting to \$266.92, and deducting these three bills leaves a total of \$9,388.15?

A. Yes, sir, that is what we paid.

Q. The balance of the items, the summary of the bills that are put in evidence?

A. Yes, sir.

Q. And the total amount paid by you as shown by these various bills is \$9,388.15?

A. Yes, sir.

(Deposition of C. D. Stimson.)

Mr. HUGHES.—We offer in evidence simply as a summary of the exhibits and for the convenience of the Court this paper identified by the witness.

Mr. SACHSE.—We object as incompetent as to the bills referred to, but we have no objection on the ground of it being a summary.

(Paper marked Libelants' Exhibit "G" and returned herewith.)

Q. Now, Mr. Stimson, how long has the schooner "Stimson" been launched, how old is the ship?

A. I do not remember the date when she was launched, but it is something like 14 or 15 months before the time of the accident.

Q. Did she have any injuries prior to that time?

A. No, sir, not that I know of.

Q. What trade was she engaged in?

A. In carrying lumber from our mill coastwise to San Pedro and down there.

Q. What was the average period consumed in making a round trip, a round voyage?

A. We made 6 trips in 12 months, a little over six, pretty near six and a half.

Q. Was she under charter at the time of the collision?

A. Yes, sir.

Q. For carrying lumber to San Pedro?

A. Yes, sir.

Q. What is the charter rate per thousand feet?

A. Seven dollars per thousand.

(Deposition of C. D. Stimson.)

Q. On the lumber? A. Yes, sir.

Q. What was the charter rate for the preceding trip?

A. Seven dollars.

Q. How much time did the preceding trip occupy?

A. I do not remember the date but very close to 60 days. I think a little less.

Q. Do you know what the net earnings, that is, after paying all of the expenses of the preceding voyage was, what the net earnings of the "Stimson" was?

A. It was very close to \$3,500. I think a trifle over \$3,500.

Cross-examination.

Q. (Mr. SACHSE.) That was carrying 950,000 feet?

A. That was carrying—I do not just remember what cargo she had on at that time but I remember he turned in a little over \$3,500.

Q. At the time of the collision she was loaded only to the extent of 650,000?

A. She had on 650,000 and she was partially loaded.

Q. And as near as you can give the profits, what is the usual profits that the "Stimson" has made on the round trip from here to San Pedro?

A. I never have made an average of it.

Q. Would it average as much as \$3,500?

A. At \$7 a thousand, yes, it would.

Q. Well, have you been paid \$7 a thousand?

A. We got \$7 a thousand for a number of trips previous.

(Deposition of C. D. Stimson.)

Q. And that would be an estimate, \$3,500, for a round trip? A. Yes, sir.

Q. In 60 days?

A. In 60 days, yes. We made six trips in 12 months and a little over.

Q. You gentlemen had the schooner built?

A. Yes, sir.

Q. What is the cost price of the schooner?

A. Between \$55,000 and \$56,000 was the cost.

Q. What was the tonnage?

A. Six hundred and five tons, about.

(Testimony of witness closed.)

Mr. FRED S. STIMSON, a witness called on behalf of libelants, being duly sworn, testifies as follows:

Q. (Mr. HUGHES.) You are a member of the firm of Stimson Brothers, the libelants in this case?

A. Yes, sir.

Q. When was the "Stimson" built? A. 1900.

Q. What time?

A. She was launched in August.

Q. Had she ever received any accidents prior to her collision with the "Rickmers"?

A. No, sir.

Q. What condition was she in prior to that time?

A. First class.

Q. You are familiar with it? A. Yes, sir.

Q. Been on it just prior to this? A. Yes, sir.

(Deposition of Fred S. Stimson.)

Q. Do you remember what the net earnings of the "Stimson" was for the voyage just preceding?

A. About \$3,500.

Q. Did she average that? A. Yes, sir.

Q. She had a charter at that rate at that time when she was loading? A. Yes, sir.

Q. Was it for a full cargo? A. Yes, sir.

Q. That is her charter authorized her to take at that rate all her carrying capacity?

A. All she could carry.

Q. The average period for her trip was how long?

A. Two months.

Q. And her loss of time by reason of this accident?

A. There was three months.

Q. Now, has any part of these damages been paid by the "Rickmers" or anyone else? A. No, sir.

Q. And including in the loss and damage to the vessel her earning capacity, none of that has ever been repaid?

A. No, sir.

Q. The vessel was not able to earn anything during the period of ninety days while undergoing repairs and reloading? A. No, sir.

Q. Have you examined all these bills, Mr. Stimson?

A. Yes, sir.

Q. Do you know whether they were paid?

A. Yes, sir.

Q. They were all paid? A. Yes, sir.

(Deposition of Fred S. Stimson.)

Cross-examination.

Q. (Mr. SACHSE.) Who built the "Stimson"?

A. She was built under our supervision at Ballard.

Q. Who built her? A. Tom Reid.

Q. Tom Reid, the shipbuilder over there?

(Testimony of witness closed.)

(At this time further proceedings were adjourned to be taken up by agreement.)

[Title of Court and Cause.]

Testimony.

Proceedings had before United States Commissioner Clifford, at Tacoma, Washington, December 16th, A. D. 1903, 11 o'clock A. M.

Captain BURLEIGH, a witness for and on behalf of respondent, being first duly sworn by the Commissioner, testified as follows, to wit:

Direct Examination.

(By Mr. ASHTON.)

Q. What is your occupation, Captain?

A. I am manager of the Tacoma Ship and Barge Company.

Q. Do you operate tugs on the Puget Sound?

A. Yes, sir.

Q. How many years? A. Four.

Q. I mean how long have you been operating them?

A. About ten years.

(Testimony of Captain Burleigh.)

Q. For ten years last past? A. Yes, sir.

Q. To what extent during that time have you been engaged in towing sea-going vessels from the Straits of Juan de Fuca into ports on Puget Sound?

A. Well, now, we have towed quite a number of vessels, but our work has been mostly local. What I mean by that is, around from here to ports inside of Port Townsend.

Q. Are you familiar with the customs in all ports of Puget Sound, at all ports on the Sound, as to the extent, if at all, to which captains of tugboats act as pilots for the vessel being towed by them?

Mr. HUGHES.—I desire to object to that as irrelevant, incompetent and immaterial, and for the reason that no general custom can have any application to the case of the "Rickmers."

(It is agreed by counsel that all like questions shall be considered as being objected to by counsel without the objection being made each time.)

Q. (Question read.) Are you familiar with the custom in all parts of Puget Sound, at all ports on the Sound, as to the extent, if at all, to which captains of tugboats act as pilots for the vessel being towed by them?

A. I don't know how to answer that for the reason that there are no such things on Puget Sound as pilots. There is no such things as pilots. They are not compulsory; not recognized. With regard to a tugboat towing a ship, a ship will come to Puget Sound a perfect

(Testimony of Captain Burleigh.)

stranger, and the tugboats go and put her hawser on her, and relies entirely upon the captain's local knowledge to take her where he wants to, put him at anchorage, or whatever the case may be; or he may have to go to Tacoma or Seattle; and the captain of the ship in nine cases out of ten, has no more idea where Tacoma is than the man in the moon; and he relies entirely on the captain of the tug to put him there. But whether the captain of the tug would be considered a pilot of the ship or not, I wouldn't be prepared to say.

Q. Do you know whether that was the condition of affairs as to the towing of vessels on Puget Sound in the month of December, 1901?

A. That has been the case for the last ten years to my knowledge, and probably years and years before that.

Q. To what extent does that *understand or custom* enter into the compensation which is paid tugboats for their services, if it is considered in fixing the compensation?

A. Well, you would have to explain that a little more thoroughly. I don't understand that question at all.

Q. Well, when you contract with the master of a ship, or with her owner to tow her into the Sound, to what extent, if at all, is it contemplated that you are to pilot her as well as to tow her?

Mr. HUGHES.—I want to add the further objection that the contract in each case would be the best evidence

(Testimony of Captain Burleigh.)

of the intention of the parties as to the significance and effect of the contract.

Q. (Question read.)

A. That is a pretty hard proposition, Mr. Ashton, for this reason, that the rates of towage on Puget Sound are a scale of rates which was adopted before I came into the business. We have towed by those rates. But whether in the formation of those rates any account was taken of the pilot's services that is performed by the master of the tug, I am not prepared to say. I was not a party to the making of the rates. The rates were made on Puget Sound before I came into the business, and we have adopted them and towed by them.

Q. (By Mr. ASHTON.) That is all.

Mr. HUGHES.—No cross-examination.

(Testimony of witness closed.)

ALEXANDER BAILEY, a witness for and on behalf of respondent, being first duly sworn by the Commissioner, testifies as follows, to wit:

Direct Examination.

(By Mr. ASHTON.)

Q. Where do you reside?

A. Tacoma, Washington.

Q. What is your occupation?

A. Shipping merchant?

Q. How long have you been shipping merchant?

(Testimony of Alexander Bailey.)

A. Twenty-three years.

Q. How long on Puget Sound?

A. Sixteen years.

Q. What business are you connected with, or is it your own business?

A. Yes, sir; I am connected with it. I am a partner in the business. I am connected with it.

Q. What business is it?

A. Well, we act as ship's agent.

Q. What is the name of the firm?

A. Balfour, Guthrie & Company.

Q. In that business, have you become familiar to any extent with towing and piloting of ocean-going sailing vessels from the Straits into Puget Sound?

A. Yes, sir.

Q. How have you become familiar with that?

A. Because when ships are sent to us, we pay all their accounts, we see what those disbursements are; and we are in touch with the captains knowing what those disbursements are for; and those things come under my observation generally.

Q. Was that the condition of affairs in the year 1901?

A. That has been the condition of affairs for the last sixteen years.

Q. Now, what class of ships have you been handling and paying charges and disbursements for?

A. All kinds of sailing ships; full-rigged ships, four-mast barks, four-mast ships; owned by the nations who send ships here—Germany, England, Italy; all nations.

(Testimony of Alexander Bailey.)

Q. Who has made the contracts for towage or pilotage into the Sound?

A. We have made the contracts sometimes. They have been usually made in England by the tugboat company direct with the owners, through the agent of the tugboat company?

Q. What is the general custom—what was the usual custom on Puget Sound, in December, 1901, in the manner of piloting ships to be towed from the sea into Tacoma or other points on the Sound?

Mr. HUGHES.—It is understood that the objections urged to the testimony of Mr. Burley are renewed to the testimony of Mr. Bailey, so that I do not need to keep repeating them.

Mr. ASHTON.—Certainly we will agree to that. Let the record show that your objections are made to each of these questions.

A. Now, pilotage is not compulsory in Puget Sound, and captains of towboats act as pilots.

Mr. ASHTON.—Take the witness.

Mr. HUGHES.—No cross-examination.

W. O. SACHSE, a witness for and on behalf of respondent, being first duly sworn by the Commissioner, testified as follows, to wit:

Direct Examination.

(By Mr. ASHTON.)

Q. You are one of the proctors in this case?

A. Yes, sir, I am.

Q. Did you have occasion to examine the log-book of the "Robert Rickmers" at the time of preparing this case for hearing?

A. Yes, sir.

Q. Do you recall examining the log or such part thereof, as narrated the event of her dragging her anchors and colliding with the "Stimson"?

A. Yes, sir.

Q. In December, 1901?

A. I do.

Q. In what language was the log written?

A. In German.

Q. Are you familiar with the German tongue and able to read and write it?

A. I am able to read it and translate it to some extent.

Q. Do you know where that log-book is now?

A. The log-book was taken away by the captain of the "Robert Rickmers," after his testimony was taken.

Q. Do you know whether or not the contents of the log as far as it pertains to this experience of the "Robert Rickmers" with the "Stimson" in December, 1901, was translated?

A. It was, I think, to the best of my recollection.

Q. Was it translated?

(Testimony of W. O. Sachse.)

A. Yes, sir.

Q. By whom?

A. By myself; and my recollection is that the first mate assisted me and was present at least, when I was translating it—either the first mate or the captain; it was one or the other.

Q. Was he German?

A. Yes, sir; and able to translate in English, with my assistance.

Q. And able to translate German script?

A. Yes, sir.

Q. I hand you this typewritten paper, consisting of two sheets, and ask you whether or not you can identify the same?

A. The paper which I have in my hand is a correct translation of the log of the "Robert Rickmers."

(Paper marked Exhibit 6.)

Mr. ASHTON.—We offer the same in evidence, and request that it be admitted.

Mr. HUGHES.—I desire to object to the introduction of this copy in evidence, first, upon the ground that the original log itself could not be admitted as competent evidence, it being a self-serving statement of the master and officers of the ship; second, because no showing has been made as to the time when the entries were made in the log, or by whom these entries were made, or whether the entries were truthfully or correctly made in the said log, and no opportunity is given to examine or test the au-

(Testimony of W. O. Sachse.)

thenticity of the facts purporting to be recorded in the log entry; and because the statements of facts contained in the alleged copy of the log have not the sanction of an oath, so as to entitle them to be received or considered as evidence.

Mr. ASHTON.—You do not object to it on the ground that it is not an original?

Mr. HUGHES.—I don't believe I can make any other objections more than I have.

Mr. ASHTON.—We ask that it be filed as an exhibit.
(Paper filed.)

Mr. ASHTON.—You may cross-examine.

Cross-examination.

(By Mr. HUGHES.)

Q. Mr. Sachse, you are the proctor who conducted the examination of the officers and crew of the "Robert Rickmers" at the time their testimony was taken?

A. Yes, sir.

Q. Representing the claimants of the "Robert Rickmers" in this proceeding?

A. Yes, sir.

Q. At the time of that examination before the Commissioner in his office in this city, you had already made this copy of the log which you have just identified, did you not?

A. That I do not remember.

Q. You had already made a copy of the log, hadn't you?

A. I don't remember.

(Testimony of W. O. Sachse.)

Q. At the time of the examination of these witnesses, wasn't the original log brought into the court-room where the examination was had?

A. My recollection is it was.

Q. At that time did you not present this copy or one exactly like it of that log, and consider the introduction of the testimony?

A. Didn't I present it? How do you mean?

Q. Read to him, and did not the commissioner consider and discuss the question of the introduction of that testimony in evidence?

A. I don't remember anything about that.

Q. As a matter of fact, was it not then disclosed that the entry contained here in the following language: "Anchorage ground did not allow us to slack more chain as we have already come too near ships lying astern of us," was an interlineation in the original log-book?

A. I don't remember of any subject of that kind coming up.

Q. Do you remember that these words were an interlineation? A. No, sir, I do not.

Q. Wasn't it because you were satisfied that the log entries were not made at the time and that certain of them were subsequently interlined, that you did not introduce them in evidence at the time, when you had the officers there by whom the entries were made?

A. No, sir.

Q. What was your reason for not introducing the

(Testimony of W. O. Sachse.)

original log or a copy of it at the time when it could be inspected and examined, and the persons who made the entries put upon oath regarding the entries and examined with respect to them?

A. I don't know what reason actuated me; at this time I don't know that I had any reason. Possibly I overlooked the matter.

Q. You think the last statement, "possibly you overlooked the matter" is the correct one?

A. It might be.

Q. Don't you think it is not, however, the correct one?

A. I don't remember anything else about it, Mr. Hughes. It is nearly two years ago since these transactions took place.

Q. Do you remember how long that testimony was taken before the ship sailed, the "Robert Rickmers"?

A. I don't remember positively, but my recollection is about a week or ten days, or some such matter.

Q. The last testimony was taken only two or three days before it sailed, wasn't it? A. No, sir.

Q. And it was commenced to take the testimony then for the purpose of obtaining it before the leaving of the ship? A. It may be correct, yes, sir.

Q. As a matter of fact, do you now recall that certain of these matters that are here appeared by way of interlineation in the original log entries?

(Testimony of W. O. Sachse.)

A. I have no recollection of that kind at all; not the slightest.

Q. Have you any recollection as to the contrary?

A. I cannot say that I have.

Q. Do you remember of ascertaining whether you ascertained or not at the time in whose handwriting those entries were made?

A. Only from hearsay. They were the captain's, is my recollection.

Q. As a matter of fact, did the captain make the entries?

A. Is that your recollection, that the captain made the entries in the log?

A. I don't know whether he did, no. Simply have to take that on hearsay.

Q. That is all.

Redirect Examination.

(By Mr ASHTON.)

Q. In your admiralty practice, you have become familiar with all ship's logs, haven't you, with the writing of logs, more or less? A. Yes, sir.

Q. What was the appearance of this log; how did it compare with the first officer's log?

A. It seemed to be regular on its face, as near as I could see, in the translation there, I think. We did not put in the signatures, which ought to be put in in the

(Testimony of W. O. Sachse.)

translation. The entries were signed by the captain and the first mate, I think, also.

Q. That is all.

Recross-examination.

(By Mr. HUGHES.)

Q. You say you are familiar with the logs? Are the log entries made by the captain?

Mr. ASHTON.—We object to that until there is some statement as to which log is referred to.

Q. You are familiar with the practice of making logs to know whether the mate made this log?

A. I only know that from hearsay.

Q. You have been advised by counsel in respect to the two kinds of logs, the official log and the mate's log?

A. This was the official log.

Q. Did you ever see the mate's log?

A. In this case?

Q. Yes, sir. A. That I don't remember.

P. J. FRANSIOLI, a witness for and on behalf of respondent, being first duly sworn by the Commissioner, testified as follows, to wit:

Direct Examination.

(By Mr. ASHTON.)

Q. Did you have any connection with the German bark "Robert Rickmers" when she was on the Sound here in December, 1901? A. Yes, sir.

(Testimony of P. J. Fransioli.)

Q. In what way were you identified with that ship?

A. We were the ship's agents.

Q. Have you any knowledge of the damage which was caused to the "Robert Rickmers" by her colliding with the "Stimson"?

A. Yes, sir.

Q. How did you obtain your knowledge?

A. From paying the damage accounts.

Q. And in what other way, if any?

A. From adjusting and attending to the ship's business, and the captain told me what the damage was, and I O. K.-ing the vouchers as they came in, and instructing me to pay them as they came in.

Q. What became of those vouchers, do you know?

A. Yes, sir, the vouchers were all sent to the owners.

Q. Did you preserve any record or statement of the amounts you disbursed?

A. Yes, sir.

Q. As such agent?

A. Yes, sir.

Q. Have you that with you?

A. I have a copy of the original disbursement account with me; yes, sir.

Q. What kind of a copy?

A. I have a copy taken from the press copy of the original account sent to the owners.

Q. A letter-press copy?

A. No, sir, I have a written copy of the original—of the press-copy of the original account sent to the owners.

(Testimony of P. J. Fransioli.)

Q. Let us see what you have? Where is your letter-press book? A. That I did not bring.

Mr. ASHTON.—We want that, unless Mr. Hughes will not object to this.

Mr. HUGHES.—I won't make any objection to this that I would not make to the original letter-press copy. I am not making any agreement, understand; I simply won't make any objection to this that I would not make to the letter-press copy.

Q. Is that a true copy of your letter-press copy of the original?

A. Yes, sir, I compared it myself this morning.

Q. I notice—that is the O. K. of the captain of the "Rickmers" made at the time? A. Yes, sir.

Q. Was that O. K. made in your presence?

A. To the best of my knowledge. It was two years ago, but I am very positive it was.

Q. And to what extent did that O. K. guide you in paying bills? A. It gave me authority to pay bills.

Q. Have any of the bills, the original bills, or has the original statement been in your possession since that time? A. No, sir.

Q. Where were they sent? To the owners?

A. My recollection is Hamburg, where they are.

Q. They were sent outside of the United States?

A. Yes, sir.

(Testimony of P. J. Fransioli.)

Q. Do you know whether they were sent to some port in the German Empires?

A. Yes, sir, I know they were sent to some port in the German Empire.

Q. Do you know whether the amounts appearing upon this paper were actually paid to the parties there, to whom they are entered as having been paid?

A. Yes, sir.

Q. Do you know whether—how do you know that?

A. Because they were paid from my office.

Q. Did you pay them yourself?

A. Yes, sir, that is I signed the checks which paid them, if that is what you want.

Q. What was the amount of bills which you paid that would compose the damages resulting from the “Rickmer’s” collision with the “Stimson”?

Mr. HUGHES.—I object to that: First, as calling for a conclusion and opinion of the witness in respect to the mature and origin of the claims, and causes from which they arose; and I also object to the testimony as not the best evidence, and as incompetent, irrelevant and immaterial.

A. I could not say.

Q. I hand you a paper writing being the statement which you have referred to, and ask you whether or not you are able to make an answer without looking at that statement.

(Testimony of P. J. Fransioli.)

Mr. HUGHES.—I make the same objection; and also for the further reason that it is not a proper memorandum from which the witness may refresh his memory, according to his own previous testimony.

A. (Examining paper.) I think I could pick out some of the items that we cause—some of the items here that we paid, but I could not tell exactly about them.

Q. You mean some of the items that were caused by the collision?

A. No, this account is simply an account of the following amounts that were paid on account of the damages which were caused to the "Rickmers" at that time.

Q. Was that entire bill paid as a result of her collision with the "Stimson"?

Mr. HUGHES.—I wish to make the same objection to that.

A. Yes, sir, as far as I know.

Q. Have you any other statements in your hands, or any other data or entries by you upon this subject, other than this statement? A. No, sir.

Q. And the letter-book of which this is a transcript?

A. That is all; just the letter-book.

Q. This is a true transcript of your letter-book impression? A. Yes, sir.

Q. To what extent is that letter-book impression a fac-simile of the original?

(Testimony of P. J. Fransioli.)

A. It is an exact letter-press copy of the original as returned to the owners.

Mr. ASHTON.—We offer this statement in evidence, but we only offer the following items herein as competent for the purpose of showing such damage as could be the subject of recovery by the “Robert Rickmers” in this action, i. e.:

Ollard Iron Works	\$ 193.39
Puget Sound Iron & Steel Wks.....	1,530.00
Puget Sound Iron & Steel Wks.....	552.84
W. H. Jenkins	795.00
I. M. Larson	920.00
I. M. Larson	40.97
Chandlery, J. C. Todd, Ship Chandler.	439.68
Life boats, etc., Crawford & Reed	389.00
German Consulate	397.00
Cables and telegrams, W. U. Tel. Co...	35.44
Same, Postal Telegraph Co.....	80.66

—All other items, we do not offer or claim.

Mr. HUGHES.—Libelant objects to the introduction and admission of this exhibit and to each item thereof: First, because the testimony is immaterial under the issues in this case. Second, because no proper foundation has been laid for the introduction of this evidence or any of the items mentioned; no testimony having been introduced to show that the materials were actually furnished, or that they were rendered necessary by

(Testimony of P. J. Fransioli.)

reason of the collision, or that the values were the true values thereof; and third because the evidence is not the best evidence. It is not, however, intended to urge any objection to this copy that would not apply to the letter-press copy which the witness has mentioned.

(Paper marked Exhibit No. 7.)

Q. Do you know whether or not the materials and labor, if any, for which these items are charged, were actually furnished to or performed upon the "Robert Rickmers"?

A. Yes, sir; I know they were.

Q. That is all.

Mr. HUGHES.—No cross-examination.

J. GEISLER, a witness for and on behalf of respondent, being first duly sworn by the Commissioner, testified as follows, to wit:

Direct Examination.

(By Mr. ASHTON.)

Q. What official or diplomatic position, if any, Mr. Geissler, do you hold?

A. I am the acting German Imperial German consul for the State of Washington, residing here at Tacoma.

Q. How long have you been German Imperial Consul at this city?

A. Well, I have been acting consul now for about three or three and a half years.

Q. Are you familiar with the German bark "Robert Rickmers"?

A. I am.

(Testimony of J. Geisler.)

Q. Were you called upon by the master of the German bark, "Robert Rickmers" in your capacity as consul, to render any assistance or service to him at the time or after his collision with the "Stimson"?

A. Yes, sir; I was called upon by the captain in my position as consul as well as representative for the owners of the ship, as soon as the captain could reach me after the collision.

Q. How did you become the representative of the owners of the ship?

A. By request of the captain. The captain showed me a cablegram from the owners of the ship in which the owners stated that he should go to the German consul.

Q. And you also acted as their agent?

A. As agent of the owners, yes, sir.

Q. Well, you did do so?

A. Yes, sir, I did.

Q. Were you agent between that and the time that the "Robert Rickmers" left here.

A. I was.

Q. Do you know whether or not the "Robert Rickmers" extended her protest?

A. Yes, sir, the "Robert Rickmers" extended her protest.

Q. Do you know whether or not that protest was ever translated? A. I don't know if it was or not.

Q. Do you know if there was any translation of the log, of the "Rickmers"?

(Testimony of J. Geisler.)

A. Yes, sir, there were many translations of the log.

Q. There were? A. Oh, yes.

Q. Was Mr. Sachse's translation made under your supervision or in your presence?

A. I know he made at least a part of the translation in my presence.

Q. Did you see the translations?

A. Yes, sir, I saw them.

Q. I show you Exhibit No. 6. Can you identify that as a translation of the ship's log? (Handing witness paper.)

Mr. HUGHES.—I urge the same objection to that that I urged to the testimony of the witness, Mr. Sachse, that is, that I object to the introduction of this log in evidence: First, upon the ground that the original log itself would not be competent evidence, being the self-serving statements of the master and officers of the ship. Second, Because, no showing has been made as to the time when the entries were made in the log, or by whom those entries were made, or whether the entries were truthfully or correctly made in said log, and no opportunity has been given to examine or test the authenticity of the facts purporting to be recorded in the log entry; and fourth, because the statements of facts contained in the alleged copy of the log have not the sanction of an oath so as to entitle them to be received or considered as evidence.

A. This is a translation of the entries of the log-book of the "Robert Rickmers"; as far as I can remember

(Testimony of J. Geisler.)

it is a correct translation, too. There is one point I would like to be permitted to speak about, that I specially remember the captain myself, as well as—

Mr. HUGHES.—Now, wait a moment. I object to any hearsay testimony between the witness and the captain.

Q. Well, we simply ask you now if you can identify this exhibit?

A. That is a translation of the log-book; and as far as I remember, it is a correct one.

Q. You say that you had some conversation with the captain about something in that translation?

A. Yes, sir; I had.

Q. How long did that happen after the collision?

A. About two days, or three days.

Q. How long did it happen after the captain first came to see you?

A. About an hour or two; maybe three hours.

Q. Where is the captain now?

A. I don't know; but I think he is at Bremen, or near Bremen.

Q. Where? A. The captain?

Q. Yes. What country? A. In Germany.

Mr. ASHTON.—I think, Mr. Hughes, that while it may rather be carrying the rule to the extreme, yet in the absence of the captain, it seems to me it might be regarded as a part of the *res gestae* to find out what occurred.

(Testimony of J. Geisler.)

Mr. HUGHES.—I think that under no circumstances could the rule be extended to that length, except as to expressions where made in the extremity of death. The captain was here once and was examined.

Mr. ASHTON.—Yes, but at that time the matter of any statement to the consul did not come up. Did he make that statement to you in your official capacity as consul?

Mr. HUGHES.—I object to that as calling for the conclusion and opinion of the witness as to the purpose and object of the captain in carrying on the conversation with the witness.

A. Shall I answer?

Q. Yes; go on and answer my question. Did he make what you were about to mention to you in your official capacity? A. He did.

Mr. HUGHES.—Let the record show that we make the same objections to that question as heretofore stated.

Q. And also as agent for the owners of the ship?

A. He did.

Q. What particular part of this extract from the log does the statement which you were about to mention refer to?

Mr. HUGHES.—Same objection to that question.

A. I asked the captain—

(Testimony of J. Geisler.)

Mr. HUGHES.—Now, just wait a minute. If the question is understood by the witness to call for this conversation, then I wish to object to the witness answering it upon the ground that it calls for hearsay evidence, and not testimony.

Mr. ASHTON.—The question is what particular part of the statement—not what was said, but which particular part of the statement.

Mr. HUGHES.—I knew the witness was not answering that question as it read, but as he understood it; and that is why I stopped him and interposed my objection.

Q. To what particular part of that extract from the log does the statement of the captain which you were about to mention pertain?

Mr. HUGHES.—We make the same objection to that question. It calls for hearsay, and not evidence.

A. As to who made the entries in the log-book as to the distances of the ships at the time of the collision?

Q. What did he say to you in that regard?

Mr. HUGHES.—We object to that: First, as calling for a hearsay statement, incompetent, immaterial, and not the best evidence.

A. I remember that the entries were made by the first mate, and that generally the first mate made entries in the log-book of the ship according to my experience. I remember the handwriting of the mate, too, be-

(Testimony of J. Geisler.)

cause I often saw his handwriting, and I read the log myself, I don't know how many times. I know that the mate in the original log the passage was written which said that they would not pay out any more chain because they would have to come too near the other ships lying near by.

Mr. HUGHES.—I move that the answer of the witness be stricken out because it is not responsive to the question, and also for the reason that it attempts to give his memory of what appeared in the original log, and not being the best evidence of the contents of the original log, and for the further reason that the log itself would not be competent as it is a self-serving declaration.

A. I refer to the time of the writing up of the log-book; I asked the question of the captain and the mate when I—

Mr. HUGHES.—It is understood now that these volunteer statements are made over my objections. I hate to be making objections all the time, but it is necessary; but shall it be understood that my previous objections shall extend to all of the testimony of the witness that the witness proceeds to give beyond the questions propounded, in the nature of conversations between the witness and the officers of the “Robert Rickmers”? If that is understood?

Mr. ASHTON.—Certainly, that is agreed to.

Q. You may tell what you did yourself regarding this collision between the “Rickmers” and the “Stimson.”

(Testimony of J. Geisler.)

A. I must say in the first place that it is my duty to ask questions of the captain as soon as I see him about things like that to find out how things really were, because in cases like that a special investigation must be conducted by me, in cases like that, for the courts in Germany, which want to determine if it was the fault of the master of the ship, or any officer, or the crew of the ship, and it may be (according to the facts which are brought out by my investigation) depose him, take away his position, and cancel his certificate. It is sometimes the only way to determine because, if the ship is allowed to go away, it may take a year, and the witnesses might depart.

Q. Did you make such an investigation?

Mr. HUGHES.—Objected to as immaterial.

A. I did not in this case. I simply wanted to find out when I asked the captain if I would have to make an investigation for the courts in Germany.

Mr. HUGHES.—I move that that last statement be stricken out as it would be incompetent and immaterial.

Q. You took his statement and that in the log for it?

Mr. HUGHES.—I repeat the same objection.

A. I did.

Q. Did you cause a survey to be made of the "Robert Rickmers" of the damage to the "Rickmers" by the collision?

A. I did.

Q. Did you do that in your capacity as consul or as agent?

(Testimony of J. Geisler.)

A. As agent. As representative for the owners of the ship and for the captain.

Q. To whom did you apply to make that survey?

Mr. HUGHES.—I make the same objection; immaterial, incompetent and irrelevant.

A. To the surveyors here.

Q. What were their names?

A. Captain Hill and his assistant, Captain Walker.

Q. Did they make a survey of the ship, of the "Rickmers"?

A. I remember that they made several surveys.

Q. I hand you this document consisting of nine sheets of paper, and ask you whether or not you can identify that as the report of the surveyors, to which you refer?

(Handing witness paper marked Exhibit No. 9.)

Mr. HUGHES.—I have no doubt that it is. It is the same—

Q. I just want you to say whether that is the report furnished by them?

Mr. HUGHES.—It is, isn't it?

A. Well, it is the report, as near as I can say.

Mr. ASHTON.—That is all.

Mr. HUGHES.—No cross-examination.

Mr. ASHTON.—Oh, yes, I do want to ask him another question.

Q. Were there any interlineations in the log-book?

(Testimony of J. Geisler.)

A. I have not seen any at any time.

Q. Do you remember about that?

A. I remember that too. I asked the captain and the mate several times about these things.

Mr. HUGHES.—I object to his hearsay statements.

Q. Were there any interlineations in the ship's log?

Mr. HUGHES.—I object to all of this evidence.

A. I can't remember that there were any interlineations.

Mr. ASHTON.—That is all.

Mr. HUGHES.—That is all.

P. G. HILL, a witness for and on behalf of respondent, being first duly sworn by the Commissioner, testified as follows, to wit:

Direct Examination.

(By Mr. ASHTON.)

Mr. HUGHES.—Now, in so far as the testimony of this witness and Mr. Walker will relate to the "Rickmers' " damage, I desire by consent that it may all be taken down by the reporter subject to my objection because it is immaterial. If that is agreed? Then I will not renew my objections.

Mr. ASHTON.—I will agree to that. Can we agree that this is their report?

(Testimony of P. G. Hill.)

Mr. HUGHES.—Yes, I have no doubt but what we can.

Q. Mr. Hill, I hand you paper marked Claimant's Exhibit No. 8, and ask if you can identify that document consisting of nine sheets of paper; ask you whether or not that is your signature to it, and if so, state if it is?

A. Yes, sir, these are all my signatures.

Q. Do you know the signature of Mr. Walker there attached? A. Yes, sir.

Q. He is your assistant, or cosurveyor, is he?

A. Yes, sir; he is the cosurveyor or assistant.

Q. Do you know that to be his signature?

A. Yes, sir.

Q. Is that the report which you made after the collision upon the "Rickmers" and the "Stimson"?

A. Yes, sir; that is the report which was made by the both of us.

Q. Which you delivered to the German consul?

A. Yes, sir; which we delivered to the German consul.

Q. As agent for the owners?

A. Yes, sir; as agent for the owners.

Mr. ASHTON.—We will reoffer it in evidence if there is any question about it.

Mr. HUGHES.—I do not raise any question about the fact that it was made by Mr. Hill and Mr. Walker, and it is their signatures and their report; but I object to

(Testimony of P. G. Hill.)

the whole of it as immaterial to the issues in the case; and so far as it purports to describe the injuries to the "Rickmers," I object to it as incompetent and immaterial under the issues in this case.

Q. I notice that this report also covers the damages to the "Stimson," which you place at \$5,000?

A. Yes, sir.

Mr. HUGHES.—Now, I will also object to the report in so far as it purports to give a description of the injuries to and damages sustained by the "Stimson."

Q. Do you regard that as a fair and reasonable estimate of the damages to the "Stimson" which she suffered from the "Robert Rickmers" colliding with her?

Mr. HUGHES.—I object to that as leading.

A. Yes, sir; we made an examination of the "Stimson" at the request of the German consul and the master to appraise the damage sustained by her through colliding with the "Robert Rickmers"; and at the time we went over it carefully and estimated that in competitive bids that it should not exceed five thousand dollars.

Mr. HUGHES.—To make the repairs?

A. Yes, sir; to make the repairs to the "Stimson."

Q. Do you know whether there were competitive bids in making the repairs to that boat?

A. I don't. Of course, we gave an estimate or our opinion of what she should have cost.

(Testimony of P. G. Hill.)

Q. Captain Hill, how did you find the cables of the "Robert Rickmers," that is, what was left of them, as to being up to Lloyd's requirements?

A. They were Lloyd's test cables, the best make of cable which have been classed in Lloyd's some time previous.

Q. What would you say as to whether her entire ground tackle including cables, was sufficient as required for such class of vessels in the sea-faring world, if you know?

A. My opinion was that they were in good condition.

Q. Were they up to the standard required on that class of vessels?

A. They were up to the standard required on that class of vessels; yes, sir.

Q. Was that also the case with the compressors?

A. That was also the case with both compressors.

Q. How was the windlass?

A. The windlass was up to standard previous to the accident.

Q. Now, when you first went aboard the "Rickmers," how long was it after the collision, if you remember?

A. Oh, well, probably a day or two. I couldn't exactly say how long.

Q. Do you remember seeing the compressor block which had broken before the collision?

A. Yes, sir; I remember seeing the broken block.

(Testimony of P. G. Hill.)

Q. Did you examine it? A. Yes, sir.

Q. Did Mr. Walker examine it? Was he with you?

A. Yes, sir.

Q. Did you both examine it?

A. We examined it together.

Q. To what extent did you examine it, and to what purpose?

A. We examined it for the purpose of finding out to what extent it was damaged, and whether it was necessary to replace or repair it, or renew it in place of replacing it.

Q. Was it broken in many parts?

A. The block was split and the compressor itself was broken.

Q. Did you make an examination of the compressor itself and the compressor block?

A. Examined them well.

Q. Did you look at them very carefully?

A. Yes, sir.

Q. With a view of what?

A. With a view of replacing it. And our report goes to the underwriters, by which they pay; and they very often ask our reason—opinion as to breaks with a view of answering any questions which come up afterwards.

Q. Did the causes of the break enter into your mind to any extent in making that examination?

A. They did.

(Testimony of P. G. Hill.)

Q. To what extent?

A. Well, the extent it entered into my mind was that the block previous to the accident, the compressor and the foundation, were in good condition previous to the accident.

Q. How did you know that? A. By the break.

Q. What did the break look like?

A. It looked like a fresh break.

Q. That is, in the block?

A. Yes, sir, and also in the casting. Of course, the compressor is made of cast iron, and a foundation to set on, a block.

Q. Referring to the casting, was there any evidence on the surface of that casting indicating weakness, or going to show the cause of its giving way?

A. None that I could see.

Q. Were there any such evidences upon the surface of the compressor block?

A. None that I could see, and I examined it carefully.

Q. And Mr. Walker also?

A. And Mr. Walker also. We examined it together. Of course it was a joint survey between Mr. Walker and myself.

Q. Did you notice any evidence in the interior of the casting or upon the face of the break on either side giving evidence of the cause of the break?

A. No, sir. The whole thing seemed to be a clean break.

(Testimony of P. G. Hill.)

Q. Did you upon the block?

A. On the block, also, it was a clean break, as far as I could see.

Q. You could see no evidence, either on the exterior or the interior?

A. No, sir.

Q. What kind of material was the block made of?

A. Hard wood.

Q. What kind of wood?

A. To the best of my knowledge it was green-heart.

Q. How does that wood compare with other woods for compressor blocks?

A. It is supposed to be one of the toughest as well as the hardest of woods.

Q. How many years of experience have you had as to being familiar with the equipment of sailing vessels of this kind?

A. Well, I have been in the business since I was sixteen years old.

Q. And how old are you now?

A. Thirty-eight. I served my apprenticeship.

Q. What experience have you had in surveying ships; Lloyd's or otherwise?

Q. I am Lloyd's surveyor—been Lloyd's surveyor for three years. I was surveyor for Dudley & Company.

Q. How many years?

A. I was for Dudley & Company nine months; just previous to being where I am.

Q. Now, from your knowledge, skill and experience,

(Testimony of P. G. Hill.)

as a shipping man, and as a surveyor, did you form any conclusion as to the cause of this compressor or the compressor block breaking?

A. Undue strain broke it.

Mr. HUGHES.—He should answer that by yes or no.

A. Yes, sir.

Q. What conclusion did you come to as to the cause thereof?

Mr. HUGHES.—I object to that as incompetent and calls for evidence not competent in the case, and not being the subject of expert testimony.

A. My opinion was it was an undue strain which caused the breaking of the compressor block, and also after reading—not reading the log, but after hearing the captain's statements to me, which, of course, it is his place to give to me at the time of the survey so as to find out the cause of the damage—

Mr. HUGHES.—We renew our objection, and move to strike out the testimony because it appears it is also based in part upon hearsay evidence, and the unsworn statements of the captain.

Q. What do you mean by undue strain?

A. Well, a strain, that is, it is not made for to stand; an undue strain that got on it through an accident.

Q. Did you form any idea as to whether or not the elements in the way of a storm, or otherwise, entered into that undue strain?

(Testimony of P. G. Hill.)

Mr. HUGHES.—We renew our former objection.

A. That was the cause of the undue strain, the elements.

Q. Now, do you know what became of this compressor block? Do you recollect what became of it? When you went on board this vessel the first time, did you see some of the compressor block?

A. Well, they were repairing it. I saw pieces of it.

Q. What pieces?

A. Just the broken parts. They had to remove the broken parts of it to install the new.

Q. Do you know what became of the block while they were replacing it?

A. Well, at the final survey of the case, I saw them sweeping up parts of it, as if they were throwing overboard the parts of the block and the general debris remaining after being overhauled and repaired.

Q. To what extent were the parts of the block swept up with the general debris?

A. Well, the pieces of the block they threw away were quite a good size; and they just threw them over the side, as far as I saw. Of course, they were no further use to them. They were already destroyed for any use.

Q. Do you remember of seeing a hook which entered into this breaking or carrying away of the cables at the time the "Rickmers" went adrift?

A. The chief officer showed us the hook belonging

(Testimony of P. G. Hill.)

to the luff-tackle, which had been put on after the compressor had gone. It was stretched out. The hook was straight—destroyed by the strain which had been put on it.

Q. From your knowledge and experience, what have you to say as to the strain which was necessary to straighten out that hook?

A. The strain would be considerable.

Q. What do you mean by considerable? Do you mean any strain which would—

A. (Interrupting.) Any strain more than the hook was made to stand.

Q. Do you think it would be possible for any ship tackle to stand the strain which straightened out that hook? A. Any tackle that size.

Q. What tackle was that?

A. It was in the way of a luff-tackle, they call it at sea. It is like a relieving tackle. There was a moor chain which was lashed around the cable before the windlass, after the compressor carried away, to relieve the windlass. After the compressor carried away, the windlass was taking the strain—the block was taking the strain after the compressor was gone; and to relieve the windlass they put on this tackle and carried it back to bits abaft. After the compressor carried away, the block of the windlass broke, and the windlass was taking the strain; and to relieve the windlass they put on these luff-tackles ahead of the windlass and took

(Testimony of P. G. Hill.)

them to bitts abaft the windlass, for the purpose of relieving the strain on the windlass. Well, then, the luff-tackles, or the hook on the tackle carried away, or let go, or straightened out, and then the strain come on the windlass again, and then—that is what broke the windlass—broke the block of the windlass on the port side of the windlass—the windlass was damaged.

Q. Now, what have you to say as to whether or not the effect upon that hook, its being straightened out, would result from any ordinary strain on the anchor cables of a ship?

A. No ordinary strain, it would not.

Q. Was there any other, if you know—was there any other larger or better chain and hook on board the “Rickmers,” which could have been used for the purpose of shackling their cable after the compressor block carried away?

A. None that I saw.

Q. Did you see all the equipment on board her, and particularly all chains in her chain lockers?

A. Yes, sir; I saw the majority of her equipment; everything, as far as it was necessary.

Q. Did you observe any larger or better chain which could have been used for the purpose of shackling her cable in the way which you have stated?

A. I cannot call to my recollection that I did.

Q. When you refer to this compressor block as having been swept up, and the broken parts put with the debris, and parts of it as you believe thrown overboard, do you know whether or not that sweeping up

(Testimony of P. G. Hill.)

and casting overboard of it occurred—if the casting overboard occurred or happened before or after the captain and officers of the “Robert Rickmers” gave their testimony in this case?

A. I could not say as to that. I just happened to see it casually.

Q. That is all.

Cross-examination.

(By Mr. HUGHES.)

Q. Did you ever see the port anchor of the “Robert Rickmers”?

A. No, sir.

Q. Did you ever examine the port chain of the “Rickmers”?

A. I did what was left; yes, sir.

Q. Did you examine the link that broke?

A. The link that was broke I did not see.

Q. What was the dimensions of this hook that was used to shackle the chain after the block broke?

A. Well, it would be about—I should say it would be about an inch.

Q. About an inch in diameter?

A. Yes, sir; as near as I can recollect. Of course, it is two years ago since this happened. It might have been an inch, or up to an inch. I could not be sure. I remember it was a big block.

Q. Would there be no other way of shackling the chain after the compressor block broke so as to relieve the windlass except by the use of such a luff-tackle?

A. Relieving tackle they sometimes call it.

(Testimony of P. G. Hill.)

Q. Without the use of hook and tackle?

A. None that I know of. That is the general way, the general way of doing it. That is the way they did; they just went through the ordinary way.

Q. Couldn't the chain have been shackled so as to have been secure, as to the chain itself, that is, by other chains, taken the strain off the windlass, and given the same power to the shackle which existed in the cable itself?

A. Well, when you give it thought, if they had the time and wasn't in the predicament they were at the time, they could have made all kinds of shifts probably; but in the predicament they were at the time, I think myself that they couldn't have done better than what they did.

Q. That was not what I asked you. You were not there at the time?

A. No, sir; but I had a statement of what was done.

Q. Let us eliminate that, and we won't say anything about what occurred up there that afternoon. What I am asking you is *independently* entirely of that. What other way would there be of shackling this chain so as to take the strain off the windlass after the breaking of the compressor block?

A. In my opinion, there is no other proper way.

Q. Couldn't they have relieved it by another spare anchor chain so as to have the entire strain taken off the block in the same way?

A. No; they couldn't have done that at that time.

(Testimony of P. G. Hill.)

Q. And give the same strength? A. No, sir.

Q. Well, how long would it take by other ways?

A. No longer than that, but it wouldn't have been good seamanship to have done it any other way.

Q. Well, if that hook wasn't as strong as the cable then they could have shackled a spare cable to this cable and then made it fast in just the way they made this luff-cable fast? A. No, sir.

Q. Why not?

A. Because they hadn't got the time. They couldn't do it that way.

Q. You have admitted, Captain, that there was other ways of shackling that cable besides the way you have mentioned?

A. There are other ways, yes, sir, of doing it. They might have taken the cable off the windlass; of course, that is what they might have done, and taken it off and fastened it onto the stern of the ship, if they had had time.

Q. What did they make this fast to?

A. To bitts.

Q. Was there any other way to fasten it——?

Q. Couldn't they have used other chains?

A. (Interrupting.) None better than what they did.

Q. (Continuing.) Except by using luff-tackle?

A. None better.

They could have fastened it around the mast, or the stern

A. As I say, they could have done many other things.

(Testimony of P. G. Hill.)

of the ship, or to the deckhouse on the ship. They could have done all those if they had had time.

Q. They had a spare anchor chain of the same dimensions this chain was?

A. No, sir; no anchor cable.

Q. They had another anchor in chain?

A. Most decidedly.

Q. Couldn't they have used the other chain and made it fast ahead of the compressor block?

A. They were already using that.

Q. They weren't using the spare chain?

A. Yes, sir.

Q. Where were they using that?

A. From the ship; the starboard anchor was down.

Q. Didn't they have a spare one?

A. No. There is a cable for the starboard anchor, and one for the port anchor also.

Q. Then didn't they have additional anchor chains aboard the ship?

A. There was an additional anchor aboard the ship.

Q. And they had an additional chain on board?

A. Which was in use, yes, sir.

Q. I don't mean the starboard anchor chain?

A. There are only two cables for the ship.

Q. Didn't they have an extra cable?

A. There are only two cables for a ship, one is on the starboard anchor and another on the port anchor.

Q. Did they have no hawsers on board ship as strong as the cable, by which they could have relieved it?

(Testimony of P. G. Hill.)

A. No; they hadn't a hawser as strong as the cable.

Q. Didn't they have hawsers strong enough for that?

A. They hadn't a hawser which could be used for that purpose.

Q. After the breaking of the hook didn't they use the hawser?

A. I can't call to recollection that they used a hawser.

Q. Didn't they use a hawser and that hawser did not part, but the cable broke and lost the anchor.

A. My opinion is at the present time that they used another block or hook.

Q. They might have used a hawser?

A. I don't believe they did.

Q. But you say it would be possible?

A. It would be entirely possible. Not at all practicable.

Q. When was it you made the examination of the "Stimson"? A. In Seattle harbor.

Q. When? A. Well, I can't call the date.

Q. When with reference to the other? Was it made on the date given? Was it January 4, 1901?

A. It was made on the date given there.

Q. It was made about that time?

A. Yes, sir; we made an examination of both vessels, the "Rickmers" and the "Stimson."

Q. On the same trip?

A. No. It may have been the next day.

Q. How long were you engaged in making the examination of the "Stimson"?

(Testimony of P. G. Hill.)

A. About two or three hours.

Q. The estimate that you made of \$5,000, the amount appraised, was the sum which in your opinion would be the actual cost of the repairs which would be required on account of the damage?

A. Yes, sir.

Q. Provided these repairs were made by calling for competitive bids; that is, by securing them to be made at the lowest possible expense.

A. By competition, which is the best way to get the lowest bids, the best terms—is competition.

Q. Did you figure that way?

A. As a rule, we reckon that way. Of course, I am in that business all the time.

Q. Did you figure it in that same way when you made your survey of the "Rickmers"?

A. That I did.

Q. Why did you not make a specific report of the injuries and damage to the "Stimson," the same as you did for the "Rickmers"?

A. For the reason that they sent us to make a survey and appraise the damage, which was the request made of us; and of course, you cannot do any more than what you are asked to do, or else they will tell you to mind your own business, which I always try to prevent people from doing.

Redirect Examination.

(By Mr. ASHTON.)

Q. Is it at all customary for vessels to carry extra cables for their bow or spare anchors?

(Testimony of P. G. Hill.)

A. Extra cable? A vessel the size of that, she would have 270 fathoms of cable; 135 fathoms for the port anchor, and 135 fathoms for the starboard anchor.

Q. And the entire cable on board the ship would be shackled onto the anchors?

A. To either the starboard of the port bow anchor.

Q. And extra cable would not ordinarily be on board of the ship for her spare or bow anchors, if she had any?

A. No, sir.

F. WALKER, a witness for and on behalf of respondent, being first duly sworn by the Commissioner, testified as follows, to wit:

Direct Examination.

(By Mr. ASHTON.)

Q. Are you the gentleman, the surveyor, who surveyed the "Robert Rickmers" with Captain Hill?

A. I am; yes, sir.

Q. What is your official capacity? Official business?

A. I am a marine surveyor.

Q. And you are also surveyor for Lloyd's agents, aren't you? At times? A. Yes, sir.

Q. Now, you wer requested, along with Captain Hill, to make a survey of the "Robert Rickmers" and also of the "Stimson," after this collision?

A. Yes, sir; I was.

Q. Did you make a survey of the "Stimson"?

A. I did, with Captain Hill.

(Testimony of F. Walker.)

Q. And the result of that is shown in this report marked No. 8?

A. Yes, sir; that is the estimate made by us.

Q. And does that also show your survey of the "Robert Rickmers"?

A. This document; yes, sir.

Q. And the nature of her damage?

A. Yes, sir.

Q. Were you able to tell from your examination whether or not that damage resulted from a collision with another object or another vessel?

A. Yes, sir.

Q. Do you know whether it did, or not?

A. I was able to tell she had collided with something by the rigging and the manner it was torn away.

Q. What do you say as to whether this is a correct and fair estimate of the damage to those ships?

A. In my opinion, it is a correct and fair estimate of the damage to all of the vessels named in this report.

Q. Do you know whether or not the damage to the "Rickmers" was repaired?

Mr. HUGHES.—It is agreed, is it, that all of this testimony is going in subject to the same objections which I made to the testimony of Captain Hill?

Mr. ASHTON.—Certainly; that is agreed.

Q. Was the damage to the "Robert Rickmers" repaired under your supervision, and that of your co-surveyor, Mr. Hill?

A. Yes, sir.

Q. All of the damage referred to in that report?

A. Yes, sir.

(Testimony of F. Walker.)

Q. State whether or not that damage was all repaired before the "Robert Rickmers" departed from the Sound?

A. Yes, sir.

Q. Did you again survey the vessel and pass her as seaworthy before she departed from the Sound?

A. Yes, sir.

Q. Now, in making these various surveys of the "Robert Rickmers" after that collision, did you make any particular examination of her cables and her entire ground tackle?

A. We made a very careful examination of the ground tackle of the vessel that was left.

Q. Including the cables?

A. Yes, sir; the ground tackle, cable, and anchors.

Q. Including the cable and compressor?

A. Yes, sir.

Q. That is, all that was left of it? A. Yes, sir.

Q. What condition did you find them in?

A. The anchors and cables were good.

Q. What would you say as to whether they came up to Lloyd's requirements in size and quality of material?

A. They came up to them; coincided with Lloyd's requirements.

Q. And with the Bureau of Underwriters' rules?

A. I am not acquainted with those rules; but I think that Lloyd's are in excess of them.